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TALKS ON CIVICS

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BY

HENRY HOLT

NEW YORK

THE MACMILLAN COMPANY

1901

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NOTE.

IN THE FORUM for April 1895 the present author suggested the need of a book on civil relations in some such form as this, and gave, by way of example, substantially the same introduction to the currency question that is printed in sections 388-9 of this volume. That was copied in several of the hard-money campaign publications of the next year, including at least one where it was calmly made a portion of the text, without even the acknowledgment of quotation-marks.

These tokens of approval, however, encouraged the present author to consider, more than mere inclination prompted, several suggestions that he himself attempt the book which he had urged somebody else to write, but for which he had then neither the knowledge nor the leisure; and he did have doubts, then candidly expressed, of success being possible to *any* writer. Dalliance with the suggestion, however, led him to fill his scant leisure with reading on the subject, and in the course of years this volume has grown up. One of the author's misgivings has been already justified—he, at least, cannot write the book for very young pupils which he originally proposed, and he doubts if the subject admits any book worth giving to such pupils. His ability to produce one worth the attention of older students is still among the subjects of question with which he began.

NEW YORK, February 27, 1901.

PREFACE TO PART I.

THE MOTIVES.

This book was written in the hope of doing a little something to develop in young people the character of mind which is proof against political quackery—especially the quackery which proposes immediate cures by legislation for the abiding ills resulting from human weakness and ignorance. Since the Civil War, America has been cursed by such proposals probably more than any other country ever was. What beneficent institutions we have, have all been evolved through the long and painful struggles which have at the same time evolved character and morality. If Nature's ways are plain in anything, they are plain in showing that it is only for such prices that she yields such rewards. And yet of all our hard-bought institutions, there is scarcely one, from a stable currency down to the very right of accumulating property, that has lately escaped a strong attempt to overthrow it, and to substitute for it some invention of the moment—or rather some invention bearing a name of the moment, but being really a form of some protean error as old as history.

As these errors all propose to get along faster than Evolution, they would of course be impossible to a mind habitually recognizing the law of Evolution. Yet that law has not even been named, so far as I can recall at the moment, in any of the American elementary books on civic subjects that I have been able to get hold of.*

* There is abundant illustration of Evolution in Mr. Fiske's "Civil Government in the United States," but I believe the word is not even mentioned, perhaps because of the theological prejudices prevailing so far back in the dark ages as ten years ago.

This may not in all cases be due to neglect, but sometimes to the conviction that it is useless to present the subject to the young. My view is more hopeful, and this book is, perhaps more than anything else, an attempt to saturate young people's minds with the realization that social institutions are evolutions, and therefore (I) that they can no more be modified by laws or votes or any other manifestations of human will than plants or animals can; but (II) that they *can* be modified *as much* as plants or animals can, tho only by the same means—careful study of their life-histories and habits, and cautious efforts in accordance with the proved conditions of their well-being; and (III) that they will be vitiated or destroyed by forced or ignorant treatment.

This is why I have spent so much time over such topics as early land-tenure and the relations of status and contract—in short, over the archæology of the subject. I want to give the pupil a consciousness that enduring institutions are growths, and do not spring up responsive to any magician's wand, be it in the hands of Mr. Altgeld, Mr. Bryan, or even so good a man as Henry George—I want to accustom him, when any method is presented for his vote, to ask: Has this thing roots?

A second motive for the book was to place before American youths at least one text-book that should not claim that our constitutions—state and national, present the final word of human wisdom. Perhaps the admission of notorious defects will bring upon the book charges of lack of patriotism, yet it is not written in a pessimistic spirit. The pessimist generally despairs because achievements fall short of ideals: the wise man compares, rather, what he and his have achieved, with what others have achieved. Our government may not be the best, but we are too near the best to despair. But if our government is ideally good already, why bother to teach anything about it?: it can take care of itself; and in fact, until lately, our people have generally been taught to leave it to do so.

A third motive of the book has been to get some teaching on our constantly recurring questions of money,

land-tenure, distribution and taxation, into places where Economics are not usually taught, and also to get into some places where Economics are taught, a fuller treatment of those four topics than is usually given.

A fourth intention has been to spread a just conception of Contract. The absence of such a conception is at the root of most of the labor troubles, not to speak of private breaches of faith. Those who realize the importance of the subject will not be impatient with the rather protracted and abstract discussion that prefaces the treatment of the laws relating to it.

In time the pupil will, as a voter, need to make up his mind on many hard subjects—so hard, some of them, that for his conclusions, or anybody's, to be taken seriously, seems almost ridiculous. But I am not sure that just that fact is not the most important of all that I want him to appreciate—the fact that in broad civic questions, the wisest man can only feel his way—as Lincoln did; and that of all pests for the voter to avoid, the chief is the man with a scheme—be it silverism, greenbackism, grangerism, socialism, communism, anarchism, or (I am tempted to add) protectionism and militarism, but sometimes there are circumstances justifying these two.

This attitude regarding a scheme may seem inconsistent with my close approach to recommending one regarding taxation. But that approach is only incidental to an effort to trace the indications of Evolution. If our men of schemes would honestly restrict themselves to such efforts, they would be less dangerous.

THE METHOD.

One of the most intelligent women of my acquaintance lately read one of the best books of my acquaintance—Professor Cooley's little pamphlet on Competition, and calmly told me that she had not found in it anything new except one point, which she questioned, and had noticed, on the margin, that I too had questioned. I asked: "Why, don't you think so-and-so and so-and-so are new?" She had not noticed one of them: her head

had been full of her boy who was wild to go to the army in the Philippines, and she had simply read the words, and had not read the thoughts at all. Now we all, especially the young and undisciplined, do more or less of that, especially in subjects which are somewhat abstract and new, as these must be to most pupils.

That is why I have held to the method of question and answer. If that method could not have been used, I hardly should have dared attempt this sort of book, much less continue it after realizing its difficulties. Dialogue is more apt than consecutive statement, to help a pupil to think, to bring his attention up by a round turn when it begins to flag, and to drive in and clinch many a point which, under ordinary exposition, might not make a scratch. Moreover, there has been growing in me a general conviction that for instruction of the young in subjects touching so closely the new and strange fields of philosophy, the method of Socrates and Plato deserves better than the desuetude into which it has fallen.

Of course the Socratic method was not mere inane catechism. Aiming at first at very young pupils, I started with that; but as I went on, I became convinced both that nothing worth teaching on the subject could be taught to very young pupils, and that a little expansion of the catechetical method might not be a bad thing for older ones.

Yet I know that I risk shipwreck by using even this approach to the Socratic method: the more intelligent teachers are, the more they prefer to make their own questions. But they will have plenty of chance with this book, if any of them use it; for no sane being would follow my questions: they were not made for that purpose, but to prevent the reader from sliding over the points without their taking hold. Some of the questions need questioning-upon as much as the answers do. I am hopeful, too, that the pupil will prepare his lesson better with the aid of the questions, and that so the hardest part of the teacher's work will be lessened by what sometimes seems to have been the hardest part of mine.

In addition to being out of fashion, the method has the disadvantage of making the book appear longer than it really is: for much space is inevitably given up to unfilled lines, and some to questions necessary only for the method's sake.

As I have written conversations, I have followed so good an example as George Eliot's by representing the usual colloquial abbreviations. If dread of dulness has led to an excess of other colloquialisms, I think I can promise that the book will be found dull enough in spite of them.

I have also hoped to add life, as well as significance, even at the cost of interruptions, by frequent comparisons of early conditions with present ones.

I have not hesitated to repeat—even to repeat often, where the topic seemed worth iterating or presenting from several sides. The significance of the matters here treated is not as plain as that of the multiplication-table, which needs to be presented but once.

I have not taken quite the pains to choose simple words that I would if writing a lecture for the same pupils: they have dictionaries, and should be led to the habit of using them. Regarding some words, however, I have had something to say which the dictionaries do not say in the same way, and the briefer dictionaries do not say at all.

In spite of a feeling against the name *Civics*, I have chosen it rather than *Politics* because it is wider in its usual connotations.

THE MATERIAL.

From the unlimited range of topics embraced in civic relations, how to select the little bookful best adapted to the needs of the average American youth, is a hard problem. Probably the authors of some of the other text-books would be more puzzled to find good reasons for my selections, than I am for theirs. They generally give much more attention than I do to the anatomy of the government—state minutely all the offices, national,

state and local, and not only the qualifications legally required for them, but even for voting for them. Now most of these things, so far as they affect a vote, the voter, as he grows up, is pretty sure to learn from the world; and so far as they do not affect his vote, they must be relegated to the vast domain of useless knowledge—unless indeed he aspire to be, as a politician, something more than a mere voter. The few boys, however, who have this spark of aspiration, get it from the altar of genius, even if it be genius for nothing higher than running a primary: and genius teaches itself.

A man who tries to judge broad questions by details is not going to get anywhere: they involve *too many* details: he can compass but a small part of them, and is in danger of getting the wrong ones and missing the right ones. Broad questions can only be judged on broad principles. Then, it might be asked: Why expect the man of ordinary attainments to judge them at all? I never have been able to find out why; but inasmuch as a vote has been given him, that responsibility has been laid upon him, whether he is fit for it or not. Well, with a fatuity equal perhaps to that which gave him the vote, I have tried in this little book to give him some notion of the broad principles on which the vote should be used. If Ethics—the profoundest and vaguest of all sciences, is taught in *some* shape from the cradle, is it plain that problems of Civics need be entirely neglected in all shapes, during adolescence? Frankly, I do not expect to teach very much about them: but I do hope to give such a notion of how some sound principles look from the outside, that the voter can tell whether they are recognized or not by those who seek his suffrages, and give his vote accordingly.

And yet I am far from believing that all of even this little book can have much meaning before it is illuminated by experience. I do believe, however, that much here which may be memorized as little more than dogmatic statement, will gain meaning from day to day, until it becomes significant; and I have even some hope that if the desperate experiment fails with the young,

the labor may be rewarded by clarifying to some maturer minds a grave problem or two, through the same courses of thought (even if borrowed thought) that have, I assume, clarified them to my own.

It may seem inconsistent with the foregoing talk about broad principles, that the book includes some groups of such specific rules of the Municipal Law as a layman ought to know. Not only, however, do I think that their value makes them a justifiable part of the only teaching of civic relations that most of my hoped-for readers are apt to get, but I have tried to put even such matter in such a way that it will do its share in impressing the main lesson of the book—the evolution of all the elements of social order, especially the inevitably imperfect evolution of some of the most important elements—"the glorious uncertainties of the law."

The original design included a second part, on the Evolution of Government, to be issued in the same volume with the first. The first part, however, as is usually the case, outran expectation; and as it has a certain completeness in itself, and is long enough to take up the time given in the majority of classes to the subject, and especially as it contains most of the "practical" matter contemplated in the entire scheme, it has been thought best to publish it without waiting for the completion of the second part; and perhaps to let the completion of that part depend upon the reception accorded to the very uncertain experiment as tried in the present volume.

Although in this part the evolution of several institutions has been considered, the evolution of government in general has not. The intention for the second part, has been not only to give an account of that, but also, as a natural concomitant, to give a fuller idea of the structure of government, tho substituting for much of the detail usually given in books for the same grade of pupils, some of the criticism and suggestion usually avoided.

I let the foregoing paragraph stand to emphasize this one. Since that one was written, I have reread Mr. Fiske's

"Civil Government in the United States," and I realize more fully than I did in my first reading that it is in many respects what, while writing my first part, I have come to intend my second part to be. If I ever carry out that intention, it will be because of the other respects, and especially because of a desire to reach minds less mature than perhaps Mr. Fiske's book can reach.

Meanwhile, and perhaps afterwards (if there ever should be an afterwards), Mr. Fiske's book is the best one I know to supplement what I have tried to do here.

AUTHORITIES.

In addition to some of the older authorities which are already matters of course, I am specially indebted to the following, most of which are rapidly becoming matters of course, if not so already. I let the list grow larger than is usual in acknowledgments, in order that it may serve as a brief bibliography for the use of teachers.—The late David A. Wells's "Recent Economic Changes" and "Theory and Practice of Taxation," * Professor Mayo-Smith's "Economics and Statistics," President Hadley's "Economics," Professor Adams's "Finance," Professor Daniels's "Elements of Public Finance," Professor Seligman's books on Taxation, Mr. Shearman's "Rational Taxation," Judge Baldwin's "Modern Political Institutions," Mr. Mallock's "Labor and the Popular Welfare" and "Classes and Masses," Professor Goodnow's "Municipal Problems," Doctor Shaw's books on Municipal Government, the valuable quarterly on "Municipal Affairs" published by the Reform Club, especially Dr.

* Two *real* books that ought to be read by every human being old enough and civilized enough to understand them; this, too, in spite of the fact that the latter was largely written during the lamented author's last illness, and therefore lacks the terseness and vigor of his earlier work. It appeared after the chapters on taxation in this present volume were written, but it was still possible to inject from that work much of whatever good they may contain.

Maltbie's number on "Municipal Functions," and Mr. Godkin's "Problems of Democracy" as well as THE NATION from the time he founded it. A word of acknowledgment is also due to the excellent articles on Civic questions in Johnson's Cyclopædia.

Among elementary books for pupils, I have found help in Mr. Raleigh's admirable little "Elementary Politics" (which, unfortunately for us, was written for England), Professor Robinson's "Elementary Law," Professor Bolles's "Commercial Law," the summary of Municipal Law in Mr. Young's "Government Class Book," Mr. Fiske's "Civil Government in the United States," (tho its field is very different from that of this volume,) and in several features of Mr. Martin's "Civil Government." His summary of the "Establishment of Liberty in England" (of course not touched in my present volume), seems to me a little gem, tho possibly rather condensed for the young pupil. I have also found Mr. Ford's "American Citizen's Manual" and Mr. Bartlett's "What I ought to know about the Government of my Country" handy for quick reference. If I have done what I have attempted, as well as these authors have done the very different things which they attempted, I ought to be content.

My hearty thanks are due to Mr. Theodore Neu for rare intelligence, interest, and suggestiveness in reading the proofs and preparing the index.

I am also under very great obligations to Professor Goodnow for reading the proofs, and for calling attention to errors. Of course he is not responsible for those which remain. I shall be similarly grateful to any one pointing out any of them.

March 1, 1901.

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TALKS ON CIVICS.

PRELIMINARY SURVEY.

CHAPTER I.

FUNCTIONS AND INFLUENCE OF GOVERNMENT.

1. Illustrations. *Teacher.* If a person going out on a bicycle, finds the roads rough or dirty, whose fault is it ?

Pupil. The government's.

T. Suppose somebody were to knock the rider down and take away the bicycle. If he could obtain no redress, whose fault would it be ?

P. The government's.

T. Suppose a foreign enemy, in time of war, robbed him of it. Whose fault would that be ?

P. The government's.

T. Suppose you bought a bicycle from a man who represented it as something different from what it was. If you couldn't peaceably make him exchange it for one as represented, whose fault would it be ?

P. The government's.

T. Suppose you sold your bicycle to a person with plenty of money. If you couldn't peaceably make him pay you, whose fault would it be ?

P. The government's.

T. Now you have illustrated the two great divisions under which the functions of government come. Can you tell me what they are?

P. The protection of our rights—as 2. Government's functions classified. against each other and against foreign aggression; and the promotion of the general convenience, as illustrated in the roads and other objects of government care.

T. Do some writers make a third division?

P. Yes: the enforcement of contracts—like those for buying and selling the bicycle. But that really belongs under the head of the protection of rights.

T. But all our talk seems to be about government, while our book professes to be on “Civics.” Isn’t it time we got a little clearer notion of the relation of what we are doing to what we profess to be doing?

P. We haven’t been talking about government alone, but about rights and conveniences too; and in going on to consider government’s relations to them, we will have to look into their origin and nature to a degree that will often lead us pretty far from all immediate questions of government; and Civics seems to be the only word to fairly include all we are to study.

T. What do you understand Civics to mean?

P. It’s one of a lot of words all evolved from the Latin word *civis*, and all relating to the consequences of people living together in society, and meaning a lot of things—from “city” up to the “civility” which city life is supposed to breed. The Century Dictionary says Civics is “the science of civil government.”

T. Why won’t “politics” do, then? What do we want a comparatively new-fangled word for?

P. The objection is well taken, tho our fortunate language is often enriched by both a Latin and a Greek word for the same thing—just as we have “civics” and “civility” and their like, from *civis*; and “politics” and “polite” and “polished” and their like, from *polis*.

T. Well now when you get to the bottom meanings, do the words “civics” and “politics”, or “civil” and “polite”, mean the same thing?

P. No: the real fact is that when we have both a Latin and a Greek word originally meaning the same thing, we soon get to applying them to different things. A boor can be civil, but it takes a gentleman—a natural one at least, to be polite—polished; politics really means the art of civil government, and perhaps more often merely the art of obtaining office or spoils, while civics really covers all matters affecting a man as a member of society, as distinct from purely personal and domestic matters: it embraces all that politics does, and, in addition, law, economics, sanitation, public education, public art, and other subjects, all of which it would be a stretch of language to include under politics, tho politics *may* touch them; but government *must* touch them, and so we are entirely reasonable to approach them through government.

T. Very well. Let us continue, then.

3 (a). *Protection of Rights.*

Please explain more in detail what you mean by rights and the protection of rights.

P. Everyone has a right to the safety of his person and property, and that people should live up to their contracts with him if he lives up to his with them. It is the business of government to protect these rights.

T. Now of course protecting rights promotes the general convenience too: so you'll have to explain your division more at length. Please illustrate the farther functions of government, which promote the general convenience.

4 (b). *Promotion of Convenience.*

P. It usually lays out the streets and paves and lights them, regulates buildings so as to guard against fire and, in some European cities, so as to secure a reasonable amount of sunlight in the streets, and pleasing architectural harmony. Government also often provides the machinery for putting out fire; regulates the liquor traffic so that a man shall not be tempted to drink too much, and abuse his family, and perhaps commit murder; shuts up stray animals in the pound until their owners get them; looks after water-supply and drainage and public health; provides public schools, parks and libraries; and coins money and carries the mails.

T. Now what is the difference between all those functions for the public convenience, and what you call the protection of rights?

P. None of those conveniences are directly in the nature of protecting rights of person and property from attack, or punishing for such attack, nor yet of forcing people to make good their contracts.

T. Isn't there a third class of functions essential to the performance of the other two classes?

P. Certainly; getting the wherewithal—taxation.

T. That probably covers the whole ground. We have seen, then, that crime, unfulfilled contracts, and bad systems of taxation (which are worse things than probably you realize), as well as bad roads, bad drainage and resulting disease, bad conflagrations, wide-spread drunkenness, are all the fault of bad government. Now if such things happen very often in a place, would it be prosperous?

P. Of course not; if bad government permits a place to be full of bad roads, drunkenness, crime, conflagrations and sickness, people will not want to buy property there, and so houses and lots will be sold for very little.

T. Does this work both ways?

P. Yes: bad government has often made prosperous places deserted and poor, and a return to good government has often made such places populous and rich.

T. Then in a free country where everybody can vote, if a place suffers from bad government, whose fault is it?

P. That of the people themselves.

T. But why should people suffer from bad government, when their own votes make the government?

P. For just the same reason that people suffer from poverty and disease—usually because they are ignorant, self-indulgent, dishonest and lazy; sometimes, tho comparatively seldom, because they are unfortunate.

T. How does ignorance lead people to suffer from bad government?

6. Some general results of bad Government.

7. Responsibility for bad Government.

P. Because government is one of the most difficult things people undertake, and ignorant people are apt to vote for ignorant people to carry it on.

T. Why are the ignorant apt to vote for the ignorant?

P. Because they generally don't know any better, and even if they do, they generally prefer to be governed by people of their own kind. Ignorant people too often hate to acknowledge anybody superior to themselves. It is only as a man grows wise that he grows able to appreciate wisdom in others, especially when it is greater than his own.

T. Why does dishonesty lead people to suffer from bad government?

P. Because dishonest voters can be bribed or tempted in some way to vote for dishonest officers.

T. But is not that against their own interests?

P. Dishonest people do not see their own interests. A dishonest man, no matter how bright he may be in some ways, is always at bottom just as Solomon says he is—a fool.

T. But how can you say that, when dishonest men often get rich and powerful?

P. When a dishonest man gets rich and powerful, it is the exception. Many of them have plainly shown that they were miserable, and it is fair to believe that at bottom they generally are. A great artist who had painted the portrait of a rich scoundrel, said that the face was the most miserable he had ever seen.

8. Good Govern-
ment requires
effort.

T. But you spoke also of laziness making people suffer from bad government. How is that?

P. Those who know something of what good government is and what capable officers are, are often too lazy or too absorbed in their business or pleasure to work to get good government. Lots of educated people do not even vote.

T. Why do we have to work to get good government?

P. Because there are always many ignorant, dishonest and selfish people working to secure bad government.

T. Why should they, when it is their own government, and they have to suffer with the rest of the community?

P. Partly because the dishonest and selfish are at bottom, stupid. If they are poor (and dishonest people are not apt to get rich) they generally sell their votes, supposing that the money they get for them, or the favors they expect if their friends are put in power, will be worth more to them than good government would be.

T. But don't you suppose that they sometimes estimate correctly?

P. If they ever do, it's the exception. Probably if all could be known, it would be found that they never do. No sensible man would think that any other human thing can help him do the best for himself as much as good government does.

T. Why?

9. Extent of Government's influence.

P. Because government affects almost everything a man does. It decides whether every step he takes and every wheel he rolls shall go with comfort or with difficulty, whether every cent he spends shall be spent to good advantage or poor, whether every second he lives shall be one of danger or security, and, in cities, whether every breath he takes should be health-giving or dangerous.

T. You have already told me the reasons about travel and security and health, but about money you have only spoken of that portion which is spent by the government. Do you mean that the government affects the worth of *all* of a man's money?

P. Government does determine to a great extent how much a man shall get for every cent he spends.

T. How does a government affect this?

P. If a government is honest and capable, its expenses will be low in proportion to the good it does, so taxes will be low, and taxes enter into the cost of everything—a landlord has to pay taxes on a store, for instance, and adds them to the rent, and so the storekeeper has to add them to the prices of the goods sold in the store. Thus prices will be made high by high taxes, and each man gets less for his money.

T. Is there no other way in which government affects the value of a man's money ?

P. Certainly: government manufactures the money, and if it manufactures bad money (as ours has done twice since 1860), a man cannot buy much with it.

GEOGRAPHICAL DIVISIONS OF GOVERNMENT.

Teacher. So far you have spoken of government as if it were one organization—as if you lived under but one government. Is that the case ?

Pupil. Far from it: Americans generally live under at least four—local, county, state and national.

T. How much territory does the local government usually cover ?

P. That mainly depends on the thickness of the population. In New England and the Middle States the local government generally covers a township, but often only a village or a city. In the Western and Southern States the local government often covers a whole county.

T. What are the most striking differences between a town, a city and a village ?

P. A village or a city is always a collection of buildings; a town (in the American sense, not the English) may contain no buildings at all, or only scattered ones, or it may contain villages or even cities.

T. Is not a city sometimes called a town ?

P. Yes, but that is only a fashion of speaking, just as men, women and children are called mankind.

T. You say Americans generally live under at least four governments; do they sometimes live under more ?

P. Yes: sometimes under both town and village government, as well as county, state and national. Sometimes, too, even the school districts of a town attend to more of their local affairs than merely those of the school, and really constitute an additional government. Sometimes the township is covered by a city, and even,

11. Each citizen lives under several governments.

12. Overlappings of local governments.

in rare cases, it has both a town government and a city government. Generally, tho, in such cases the city government replaces the town government. But when the city covers the whole county, as a few of our leading cities do, both governments generally continue side by side.

T. Doesn't something like the reverse occur in very thinly populated regions?

P. Yes: in them the county is sometimes the smallest political unit, and performs what functions of a local government are necessary. Then people live under but three governments—county, state and national.

T. Ordinarily, what do local governments do—or neglect to do?

13. Functions of local government.

P. Lay out streets and roads too short to come under the jurisdiction of the wider governments, and do whatever grading, paving, sewerage, sidewalking and policing they may have; punish offences and settle disputes too petty to come before the wider governments; regulate building and protect against fire; sell licenses for some trades; look after the schools and the poor and sick; grant permits (in thickly populated regions) for public vehicles; and sometimes supply water, light and other conveniences, or else grant franchises to companies that do supply them.

T. What does county government do?

14. Of County government.

P. The county is mainly an organization for the administration of justice better than it could be done by small local governments. The county generally provides better courts, jails and often almshouses and hospitals, than the local governments could afford, and gives all its localities the use of them. At the county seat, too, it generally keeps the records of the real-estate transfers, and other important documents. The county also sees that the longer roads are properly laid out and cared for.

T. But suppose a city overgrows the county, and there are no little local governments?

P. Then there is need for all the more elaborate courts, records, etc., and the county government is generally kept up along with the city government.

T. What does the state government do?

15. Of State gov-
ernment.

P. Some people in the cities are beginning to say that its main function is really to enable the country to milk the cities—to give country legislators, who are in the majority, the chance to lay an undue share of the taxes on the cities, and also the chance to get bought off—or on—regarding all sorts of legislative “strikes” against the cities.

T. Well, what does the state government *profess* to do?

P. In regard to justice, something for the counties like what the counties do for their small local governments—it provides a high and expensive grade of courts to which important cases can be taken from all over the state, especially cases that are appealed from the lower courts. It also provides prisons, and often reformatories and insane asylums, better than any that the counties could ordinarily support; it regulates the roads and railroads that pass through several counties; and what is most important of all, it passes laws regulating personal rights and property rights over the whole state, so that if a man wishes, he can deal safely with a neighbor who lives, or owns a piece of property, more than a mile or two from the place the former lives in, because the same law judges for both if any difficulty arises.

T. You have indicated that all the local and county governments can pass only such ordinances, and judge only in accordance with such laws, as the state government approves—in short, that they are under the control of the state government. Now is the state government under any control?

P. Besides the will of the people, there is no control whatever over the state government except in particulars where it has combined with the other states to make the nation. In so doing, each state gave up to the nation a carefully specified portion of its powers, but reserved all the others.

T. Isn't there a pretty distinct line between those given up and those reserved?

P. Yes, it is true in the rough, or “by and large,”

that the citizen's rights so far as affected by other nations are regulated by the nation; and, as we shall see more particularly hereafter, there are certain broad principles of liberty which the United States is to maintain if any state should fail to do so. But these principles have become so much matters of course in the Anglo-Saxon race that probably there is not one case in a hundred where a man's rights are not practically under the care of his state rather than of the nation. In the vast majority of cases the state is still sovereign, as it was originally—so entirely that the terms “government” and “state” are still interchangeable.

T. Why were you at such pains to say “true in the rough, or ‘by and large’”?

P. Because Civics can't be as exact as Mathematics. Civics deals with human nature—the most complex and uncertain topic we know anything about—and with human nature in many men at that. So many influences are at work that there are apt to be different elements in cases that appear alike: and therefore such cases sometimes turn out very differently.

T. But have investigators found plenty of principles that are true in most cases?

P. Yes, true “roughly speaking,” or “by and large.”

T. Well, we'll try to take the exceptions for granted in future, then, and not stop too often to allude to them. Now, “in the rough,” or “by and large,” what does “sovereign” mean?

P. As a noun and an adjective, its meanings differ. The queen of England is a sovereign, and yet she is not sovereign, but the people are. The Czar of Russia or “the king of the cannibal islands” is both a sovereign and sovereign.

T. Well, so far as our national government
16. Of National gov-
ernment, is sovereign, what does it do?

P. Makes the United States a great and powerful nation instead of a group of little states on any one of which any petty nation could impose, and which would be apt to impose upon one another. To prevent that, the national government provides courts before

which, for instance, "little Rhody" may obtain justice in any dispute with big New York, and it also regulates commerce between the states. The government of the United States as a great nation, regulates our relations of commerce, peace and war with all other nations. Hence it provides custom-houses, and army and navy; makes laws regarding naturalization of foreigners; and protects our citizens trading or traveling in foreign lands. It also guards the coast, by lighthouses and harbor improvements as well as by ships and forts. Moreover, as it is a great convenience to have the same money, the same weights and measures and the same mails, over all the states, the national government provides and regulates them. It also secures to inventors and authors the fruits of their labors by patent and copyright laws good over the whole of the United States, and has arranged for like security over most foreign civilized territory.

DEPARTMENTS OF GOVERNMENT.

Teacher. So much for a hasty preliminary survey of our various American governments as geographically determined. Now let us take a similar glance at their general make-up. Roughly speaking, what prominent features have they in common with each other and with all civilized governments?

Pupil They make laws, decide what laws apply to particular situations, and see that those laws are carried out.

T. What are those three functions called?

P. Legislative, Judicial and Executive.

T. Now to understand these three functions of government, let us inquire what's the advantage of having rights protected by government? Doesn't every man understand his own rights better than anybody else can? Why not leave each man to take care of himself?

P. The bottom reason perhaps is in the answer to the second of those three questions. So far from it being

true that every man understands his own rights, it is proverbially true that no man is a fit judge in his own cause: so one of the most important functions of government—a subdivision of its protection of rights, is providing unprejudiced judges to determine, when a man's rights are in dispute, what they really are.

T. Well, that may justify having courts, with judges and juries, but after they have determined what a man's rights are, why not let him go for them himself?

P. Because it would depend largely on the size of the other man whether he would get them, and nearly every lawsuit would end in a fight, and perhaps a killing, and perhaps a long family vendetta. They did so quite generally in the first few hundred years where we get glimpses of the ways of our Saxon and Norman ancestors, and still do in the primitive parts of our country, and in primitive countries generally. It would be almost as well to have the fighting come before the lawsuit as after it, and save the expense of the suit. To make the machinery for finding judgment of much use, there must be machinery for executing it, and machinery so powerful that the losing side would not think of resisting.

18. Sources of
Government.

T. And whence comes this power?

P. In advanced societies, it is the power of the whole community behind the officers of the law. In our own country, the humblest rural constable can call upon every citizen at hand to help him enforce the law. If they cannot do it, he can send for all officers within reach, with such citizens as they can bring; if the resistance is still too strong, he can call upon the governor for every militia company in the state; if the resistance is too strong for them, the governor can call upon the President of the United States for its whole army and navy; and if they are not large enough, the government can enlarge them until every loyal citizen is in the ranks.

T. Suppose not enough citizens are loyal?

P. Then, of course, the affair would amount to a revolution, and the resisting side would overcome the government and set up a new one. In fact, when people, like our neighbors in South America or our friends in

France, get into an uneasy state, revolutions often start that way—in some petty quarrel, and spread until the whole state is involved.

T. Well, you've shown good reasons for a judicial department to determine rights, and for a strong executive to protect them and enforce duties, but isn't there another reason almost as good, and in some aspects better, why a strong executive is needed?

P. Yes: if the executive is strong, there's very little protecting or enforcing needed. People come down quietly, as the 'coon did when he saw that the man behind the gun was Davy Crockett; and what's more important still, they don't go up—they behave themselves generally, because they know it won't pay to do anything else.

T. Well, we seem to have reasons enough for the judicial and executive departments of government, but are those two departments all of government?

P. No, although in a primitive government, there are not even that many; the chief is the whole establishment, with the men he can get to do his will; but a government highly organized (or highly differentiated, as the philosophers say) is split up not merely into the two departments we have already found necessary, but also into a third—the legislative, which makes many of the laws that the other two departments respectively judge under, and execute.

T. Now please give a case illustrating how the three departments work.

P. Take the man going out on his bicycle. He breaks his wheel because of the roughness of the road, tries to get redress, and proceeds to sue somebody. He finds out that under laws passed by the state legislature, it was the duty of the men owning on the sides of that particular road, to keep it in order: that is step first—a law was *passed*. Now it has got to be *applied to the case*: "our bicyclist goes to the man owning on the side of the road where the damage was done, and the man says: "I don't take care of one side of the road. My opposite neighbor and I agreed to divide it lengthwise.

19. The three departments illustrated in civil and criminal suits.

We take fifty yards apiece. Your accident occurred on his fifty yards." But the neighbor says: "Nonsense: the accident did not occur on my portion of the road: I won't pay." Then the bicyclist may have to go to court to see which man is responsible. That is step second—determining how the law fits the case. When the judge, after hearing all the evidence, determines that point, he may decree that one man or the other owes the bicyclist ten dollars. Then comes in the third step—*enforcing* the law: if the man doesn't pay, the sheriff comes in and sells some of his property, and pays the bicyclist out of the proceeds; and so are finished up the three general functions of government—providing the law, fitting it to a case, and enforcing it.

T. What is such a suit called—when nobody is on trial for a crime?

P. A civil suit.

T. Now please illustrate a criminal trial.

P. Somebody knocks the bicyclist down, and takes his wheel. The state government has *provided laws* (step first) punishing violence and robbery. The local government has a policeman or constable to arrest the offender; it has also a magistrate to determine what laws he has violated, and whether the punishment they decree is one of the slight ones that a local magistrate can inflict, or whether his case is so serious that it must be tried in a more important county court. After the offender is tried in one or the other, and the *law in his particular case is declared* (step second) and his punishment is decreed, the third step is taken, and the law is *executed*—the local policeman locks him in the station-house for a day or two, or the county sheriff takes him to jail for perhaps a month, or the state officer receives him into the penitentiary for a longer period.

T. Which government is generally first evolved?

20. Legislative, Judicial and Executive functions in local government.

P. The town, or perhaps the county, either of which starts as merely a collection of farms.

T. Does it perform the three functions?

P. Yes: for example, wherever the township system prevails, all the voters get together to *legislate*; they also select a magistrate to *judge* in disputes and crimes, and a board of "selectmen" (generally three), and perhaps a constable, to *execute* the laws.

T. What happens as population increases?

P. As the village is evolved, the voters are no longer their own legislature, but legislation becomes more representative.

T. What do you mean by "representative"?

P. Where population is thick, so many questions arise, that people generally cannot come together often enough to settle them all. Moreover, when there are very many people, they cannot hear each other speak, and count the votes. Under such circumstances, they usually divide up into smaller bodies, each of which elects one man to represent it in a gathering of all the representatives, and there to decide matters of government for all the people.

T. How is a village generally organized to perform the three functions?

P. Generally it *legislates* through a representative board of trustees who pass ordinances about the streets, bridges, local health, etc., but they must do this in accordance with general laws laid down by the state legislature. A village also has separate magistrates to *judge* under the state laws determining personal and property rights: thus they settle petty quarrels and punish petty offences, or send the offenders to higher courts. The village also has an *executive* head in the president of the board of trustees, who is assisted by commissioners for streets, fires, health, etc., to execute the ordinances of the board of trustees (legislative department), and the president is also helped by policemen or constables to execute the decrees of the magistrates (judicial department).

T. How is a city government composed?

P. Generally of *legislative* bodies (known in different places as aldermen, councilmen, etc.)—sometimes of two chambers, to pass laws regarding local matters; *judicial courts* of a higher grade, as well as those of

the magistrates; and a mayor with a considerable body of assistants to see that the laws are *executed*.

21. The functions in Counties.

T. Do the counties have any law-making assemblies?

P. Not for the direct purpose of legislation, tho the bodies known as Supervisors or Commissioners really have considerable legislative power over taxes, roads, care of the poor, etc. Generally speaking, however, outside of these officers, county governments are, as said before, merely organizations for the administration of justice. They have no professed legislative body, but only judicial and executive bodies—that is to say: no law-making body, but only two sets of functionaries—the judicial, consisting of judges of courts and their assistants, to apply the law which the state legislature makes, and to record legal documents; and second, a two-fold executive body consisting of the sheriff and his assistants to carry out the law after the courts declare what it requires in each case, and also of commissioners to care for the roads, court-houses and other county buildings.

22. The three functions in States.

T. Now what is the state government?

P. It has the “full kit”—legislative, judicial and executive. The legislature generally consists of two bodies, both of which have to concur to pass a law; their laws provide for the care of person and property all over the whole state, and are applied by local magistrates, city courts, county courts and state courts; then the state has its judicial bodies—the state courts, which generally hear cases appealed from the county courts, and also determine whether laws passed by the legislature are according to the agreement of the people under which the state was primarily organized (generally called the Constitution); and the state has also its executive body—the governor and his various assistants, who see that the general laws passed by the legislature, and the particular applications of them determined by the judiciary, are executed. Some state governments can remove local officers who fail in this regard.

T. Now, has the United States government the same

general tripartite organization that the minor governments have ?

23. The same functions in the Nation. *P.* Yes: it has the legislative body, consisting of two houses of congress; the judicial body, consisting of United States courts scattered all over the country, and a supreme court at Washington to try appeals from them; and finally an executive body to carry out the laws and the decisions of the courts, consisting of the president; his cabinet; all the national civil service in the departments at Washington, in the custom-houses, post-offices and mints all over the country; the army and navy; the lighthouse and coast life-saving service; and many other divisions.

PART I.

THE FUNCTIONS OF GOVERNMENT.

BOOK I.—THE PROTECTION OF RIGHTS.

CHAPTER II.

OF RIGHTS IN GENERAL.

Teacher. Now let us go more particularly into the three general functions of government. Rehearse them again, please.

Pupil. Protecting rights (including protecting them against a foreign enemy); promoting convenience; and taxing for its own maintenance.

T. Which was evolved first, protecting rights or promoting convenience?

P. Protecting rights, because, in early societies, before some progress has been made in civilization, there are no conveniences to promote.

T. What is the result, then, on the body of Law and Political Science evolved even up to our day?

P. It deals mainly with rights. The functions of government in promoting the public convenience have been evolved so late in comparison that they are not nearly so clearly understood; in fact, comparatively little attention was paid to them before the middle of the nineteenth century.

T. Very well. Let us first, then, take the better understood field—that of rights. Do all rights impose duties?

24. Rights impose duties.

P. Certainly; they impose duties on others, and also duties on oneself.

T. How do they impose duties on others?

P. A right, of course, is a power to justly demand that somebody shall do something or refrain from doing something; and this doing or refraining on the part of somebody, in response to a right demanded, is of course a duty.

T. But what determines whether the demand and consequent obligation are just?

P. "The greatest good of the greatest number." What that is, is declared not only in all religions, but by the experience of mankind.

25. "Greatest happiness" principle.

T. But the religions differ, and so do the opinions of mankind. Who shall judge?

P. Each nation has its own dominant religion and dominant opinions. In proportion to the advance of a nation, its opinions, religious and secular (which generally correspond pretty closely) are embodied in customs and laws. Priests and judges apply them to the cases that come before them, being guided in very advanced races by a body of Law made up of recorded opinions that have been applied to similar cases, and piecing out such opinions to fit new cases. Thus rights and duties are declared and enlarged, and the power of the whole society, directed by the government, is exerted to defend the rights and enforce the duties.

T. That seems a very beautiful and harmonious system. Does it work as well as it sounds?

P. Priests, judges and rulers are human, and the scheme and its workings are hampered by human imperfections. Both have improved immensely, however, in recorded history, and, taking the race by and large, are improving every day.

T. Is there any plain way of improving them faster among us?

P. Certainly; by improving each man's sense of civic duty—so he'll follow only wise priests, and vote for only good judges and rulers—if that is a "plain way."

T. Now how do one's rights impose duties on oneself?

P. A man can't expect other people to grant his rights unless he grants theirs. He can assert a right to life or property, for instance, only as he performs the duty of granting other people their rights to life and property.

26. Rights and duties imply each other.

T. But *why* are a man's rights measured by his duties?

P. We don't know why, any more than we know why two and two make four. It is a law of Nature, proved by all human experience—justice must be reciprocal—must be even to both sides: the goddess holds the scales.

T. What statements of that law have most influenced the civilized world?

P. "Do unto others as you would they should do unto you," and "Forgive us our trespasses as we forgive those who trespass against us."

T. How were the rights for which our fathers demanded government protection, summed up in the Declaration of Independence?

27. Rights classified. *P.* The rights to Life, Liberty, and the Pursuit of Happiness.

T. And there might easily be a worse classification. But classification suggests the idea of scientific treatment. Now as these rights seem to spread everywhere, and yet as you can't touch or see them, as you can a plant or an animal or a star, *can* we give them any scientific treatment?

P. Certainly: what we know about them can be given scientific arrangement, and that's all that we can give to what we know of any subject.

T. But how about "scientific precision"?

P. Of course we can know some things more precisely than we can others—simple things more precisely than complex things—things of sense more precisely than affairs of thought and feeling.

T. Illustrate from the sciences, please.

P. The most precise science of all—mathematics

deals with the simplest things, mere quantity and position, without any reference whatever to the infinite number of conditions which, for instance, make the difference between a human being and a stone of the same shape. Again, as a stone is simpler than a plant, we have a more precise science of stones than of plants, and for the same reasons, of plants than of animals; of the lower animals than of the higher; of the animal's body more than of his mind, and of the individual animal's mind more than of the interplay of a number of minds. So we have got to be content with less precision, and consequently, more difference of opinion, in studying the interplay of men's souls—their social relations, than in studying almost anything else.

T. How then can we make a science of them?

P. As I said before, precisely as we make a science of anything else—get what knowledge we can, classify it as best we can, and use our system to help us to more knowledge.

T. How are rights usually classified for scientific treatment?

P. The first division is into Rights regarding Persons and Rights regarding Things.

T. The Declaration of Independence hardly followed that classification, did it?

P. Yes, in a way: the rights to Life and Liberty are plainly rights regarding Persons—as against attacks from them, and as embracing duties from them; and under the rights to the Pursuit of Happiness we can easily treat separately those relating to persons and those relating to things.

T. But aren't the terms "personal rights" and "property rights" sometimes taken in a different way?

P. Yes, personal rights are sometimes regarded as rights affecting one's own person, as distinct from rights affecting one's property. The classifications cross in some particulars, as nearly all classifications do.

CHAPTER III.

RIGHT TO LIFE.

Teacher. We may as well start with our fathers' classification. The right to life seems too plain to discuss, and yet must the state always preserve its citizens' lives?

Pupil. On the contrary, it often demands them—by thousands at a time, in war for its own defence, and even (rightly or wrongly) for its own extension.

28, The State's
claims.

T. But even then, isn't it the state's duty to guard the lives as well as circumstances permit?

P. Unquestionably. The state has no higher duty than to give its soldiers the best possible care:—to give them such officers, surgeons, arms, food, and care of every kind as will bring their lives through war if it is a possible thing.

T. Does not the state demand life in any other way than in war?

P. Yes, under the laws of most states a citizen forfeits his right to his life when he does not perform the duty on which that right rests. If he neglects that duty and kills somebody else, his right not to be killed is gone and the state may kill him if it sees fit.

T. Has a man always a right to his life unless the state demands it in war or for justice?

29, Humanity's
claims.

P. No, it is often a man's duty to risk it for those he loves.

T. For nobody else

P. Yes, to help others in danger of their lives.

T. Never from motives less than pure benevolence ?

30. Professional
claims.

P. Yes, to do their mere duty in the profession they have chosen, not only soldiers, but doctors, chemists, miners, engineers and many others, must risk their lives.

T. But can't they turn back when their lives are in danger ?

P. Not when other people's lives are in their hands. The time to turn back is before adopting one of the heroic professions—before accepting duties which so often place other people's lives in one's hands.

CHAPTER IV.

RIGHTS TO LIBERTY.

Teacher. So much for the right to life. Now as to the right to liberty. What is liberty?

Pupil. Absence of restraint in the exercise of one's rights.

T. Does liberty, then, mean freedom to do as one pleases?

P. Certainly not: no man is at liberty to do as he pleases, if it interferes with another man's right to do as *he* pleases.

T. You mean, then, that if I should please to stop a man striking a woman, I would have no right to do it, because it would interfere with his doing as he pleased?

P. No: his doing as he pleased in that way, would be interfering with her doing as she pleased—with her enjoying freedom from pain and injury, and therefore it would be wrong, and should be stopped.

T. Suppose she were his wife, and were wasting his money?

P. She would then be interfering with *his* doing as *he* pleased with his money.

T. But suppose she were a hard-working woman and he pleased to waste the money?

P. Then he would be interfering with *her* right to do as *she* pleased with it.

T. But how could they each have a right to do what they pleased with it, when each might want to do something different from the other?

P. Each would have the right, but it would be limited, as was said a moment ago, by the other's right.

T. But how are people to settle their rights when they conflict in this way?

P. That's one of the things that the state is for: if they can't settle by themselves or with the help of their friends, they should resort to law, not to fist-cuffs.

T. When people are living together, then, it seems as if the liberty of each must be somewhat curtailed by the rights of the others. Is this restricted to husband and wife?

P. By no means: all people living near enough to affect each other, must have their liberty limited to some extent by the rights of others.

32. *Barbarian Liberty and civilized Liberty.* *T.* Can you give me an illustration?

P. A man living alone in a forest would be at liberty, if he wanted to, to shout and sing and fire his gun at any time of night, and shoot in any direction. But if he were living in a community, such conduct would very properly send him to the lockup.

T. But is nobody free to shout and sing or fire a gun in the city?

P. Yes, under proper conditions.

T. What general name is given to the conditions that limit the exercise of rights?

P. Duties, as already said.

T. If a man claims the liberty to shout, sing and fire a gun in the city, what duties has he?

P. To do it only at proper times and places—ordinarily in enclosed buildings, or on occasions rightly or wrongly considered proper, like the Fourth of July, and in places where everybody agrees to make a noise.

T. If he claims the right, then, does he admit these duties?

P. Certainly; anybody claiming a right, admits the duties limiting it. A man's right to enjoy himself admits the right of others to enjoy themselves, and confesses the duty of enjoying himself so as not to interfere with their enjoying themselves.

T. If a man claims the right to make a noise and fire his gun in the wilderness, what duties does he admit?

P. If nobody else is there, there's nobody to claim the duties. If there is anybody else there to make the claim, there arises the duty of not disturbing him or shooting in his direction.

T. Whence, then, do social duties arise?

P. From men living together in societies.

T. But why should men limit their rights by living together in societies?

P. Because they gain vastly wider and better rights—they can do many things together that they cannot do separately, and because there has been evolved from this habit of living together, a happiness in sociability itself.

T. When, then, a man calls upon the power of society to protect his liberty, what duties to society does he confess?

P. Two duties—that of not interfering with the liberty of others, and that of helping to protect the liberty of others, just as he claims that others shall protect his.

T. Do you mean he must act as an officer?

P. Yes, if he is called upon (18).*

T. But few men are needed as officers: has the private citizen any duties as a member of society?

P. Certainly, it is his duty to vote for proper officers, honestly to pay his share of the expenses, and to inform himself so that he can take the right side in all social matters.

T. And what measures his right to the liberty—to the rights and conveniences government provides him?

P. His faithfulness in performing the duties government requires of him.

T. We have seen, then, that we get the advantages of civilization at the expense of some of the rude liberties of the savage. Has not the state, then, the same right to restrain a man's liberties that we have seen it has to demand his life?

P. Certainly, whenever the greatest good of the great

* The cross-references (and the index) indicate numbered paragraphs, not pages.

33. Duties balance
in rights to
Liberty.

34. State's right to
restrain Liberty.

est number requires it. Not only must the insane and the criminal be restrained, but the noisy, the indecent, the filthy and those otherwise disagreeable, must be kept within bounds.

T. But does liberty need protection only against the corrupt and foolish?

P. No: sometimes rights have to be infringed upon, even by men as good as Lincoln, in war, insurrection and riot: for when people may be bearing arms against the government, there is no time to wait for trials; moreover, even in a free country, a majority will impose on a minority or an individual. It is well to be always sufficiently alive to political rights to guard against the slightest infringement.

T. But why are *trifling* infringements worth guarding against?

P. Because, like "the rift in the lute," they tend to grow. There is reason for the proverb that "Eternal vigilance is the price of liberty" (8).

T. But what is to determine when the state shall invade the citizen's rights? Who is to judge, when rulers or majorities are under temptation?

P. That's a big question and covers most of the art of government. Most of our book is taken up with it, and so are thousands of other books.

T. But certainly you can give some idea of the ways of deciding it.

P. The question of what is for the greatest good of the greatest number comes up every time a legislature passes a law or a court makes a decision. Hundreds of thousands of such laws and decisions are embalmed in state constitutions and law libraries, and whenever difficult cases arise, that stored-up wisdom is consulted.

T. How is liberty guarded in the constitution of the United States?

P. Strangely enough, very little is said about it in the constitution of the United States. It seems to have been the feeling of the framers that the principles of political liberty had been

35. "Eternal vigilance,"

36. Constitutional defences, Bill of Rights.

so firmly rooted in the Anglo-Saxon race that it was worth while to write down but few of them. But when the States were called upon to ratify the constitution, they thought differently, and asked that certain other bases of political liberty which the race had been working out for over a thousand years, and which all the States then had in their own constitutions, should be written down. Consequently we have them in the first nine articles of the amendments.

T. What are these articles generally called ?

P. The Bill of Rights.

T. Was the name first applied to ours ?

P. By no means. It was given to an English statute enacted after the revolution of 1688, and ever since has been a favorite term for constitutional provisions to protect the individual against the government.

T. What are the principal items in our "bill of rights" as it is included in both the constitution and its amendments ?

P. The constitution itself * provides against arbitrary imprisonment, bills of attainder, *ex post facto* laws, unequal taxation, misuse of public funds, and corruption of public officers by giving titles of nobility at home or abroad, or by bribery abroad; also † against wholesale charges of treason and corruption of blood for it. The first eight amendments provide for free religion, free speech, free assembly, free locomotion, publicity of all government proceedings, prompt and fair trial by jury, the right to bear arms, and freedom from excessive bails and fines.

T. Many of these rights are so well understood by every American, and some of them can be so much better treated later, that we need consider only part of them here. What is a bill of attainder ?

P. A conviction of crime, without trial, by mere resolution of a legislative body, such as congress or a state legislature or the British parliament. This was a favorite means of tyranny in the days of religious persecution.

* Art. I. Sec. IX.

† Art. III. Sec. III.

Every person accused of a crime is entitled to a full trial in a court, by jury, and with witnesses that he can cross-question and contradict face to face.

T. What is an *ex post facto* law?

P. A law imposing criminal penalties for acts that were committed before the law was passed. Laws imposing such penalties should take effect only upon acts committed *after* their passage.

T. Why is free speech, in which I suppose you include a free press, necessary to liberty?

P. Because a government whose acts cannot be proclaimed and criticised, can impose on people. One of the first things tyrants attempt, is to muzzle the press.

T. Has anything like that been done in our country?

P. Offices have been given to editors, which of course limits their tendency to criticise the party in power; and in political meetings the majority sometimes refuses reasonable attention to the opinions of the minority, or the rowdy element dominates the peaceable element and sometimes drives them out: even minorities have sometimes made trouble enough to break up meetings.

T. Why is the right of free assembly necessary to liberty?

P. Principally because if people could not meet to protest against a bad government, every government would tend to become bad, and it could do as it pleased and hold on forever. Tyrants are all the time breaking up meetings, and bad men often do so even in free countries.

T. And the right to bear arms?

P. Of course that would be one of the first rights a tyrant would try to suppress.

T. But aren't there laws against it in many of our states?

P. No: only against *concealed* weapons.

T. What is meant by publicity of all government proceedings?

P. Having all laws debated and passed in public, so that the people may know the reasons for and against, and bring their opinion and the influence of the press to bear on the law-makers; and may also know which men vote for good laws, and which for bad.

T. How about publicity in courts?

P. It is perhaps even more necessary there than in the legislature. There is no guarantee that a secret trial will be fair, or a secret arrest justifiable. All the stories of tyrannous times are full of secrecy.

T. How about promptness of trial?

P. Tyrants nearly always delay trials, if they grant them at all, and keep their victims lying in prison.

T. Don't people sometimes try to put off their own trials?

P. Yes, and if they do, with decent courts, it is a strong sign that they are guilty. An innocent man can almost always prove his innocence promptly if he is free to call witnesses.

T. What is the great security for prompt trial in our country?

P. The writ of *Habeas Corpus*. The words mean: "thou shalt take the person" (or, more strictly, "the body"), and they are the first words of a writ or writing or order that any judge is bound to issue, on proper application, requiring those who have the custody of any untried prisoner to "take" his "person" promptly into open court for trial.

T. But is it worth while for us to consider such matters? Have we any tyrants in America to keep in prison any person without proving charges against him?

P. We have more than we always realize.

37. The man with
a pull. Sometimes a majority is the worst possible tyrant; and in this case, we have the "man with a pull."

T. What do you mean by that?

P. He is generally a man who can influence a large ignorant and corrupt vote, and through it has what they call a "pull" on careless or corrupt government officers. In one of the bad wards of New York, for instance, such a man is said to have got the police to arrest, and the magistrates to jail, almost anybody he pleased; tho of course he could not "please" like Richard III. and Henry VIII. to attack prominent people. He is also said to have got almost anybody he pleased, let off by the police and magistrates.

T. How can we defend our liberties against such people?

P. Only by making government positions depend upon character and intelligence—so that there won't be corrupt police and judges.

T. In America it hardly seems worth while to speak of freedom of opinion, because religious liberty is so well protected, but are we after all free from attack on our liberty of opinion?

P. No: a man's neighbors are always exerting a silent pressure to make him think and live in their way; and laws favoring one set of private opinions and industries, rather than another, are constantly passed without people noticing them or realizing their bearings.

T. What kind of laws do you allude to?

P. The laws distributing charities or school funds with reference to religious opinions, laws making it easier to select from one political party than from others the public clerks and laborers with whose work political opinion has nothing to do; or laws favoring one kind of industry at the expense of others.

T. Is there special danger in these laws?

P. Yes, there the danger of tyranny is greater than in *open* attack on life, liberty and property, because open attack would be understood and resisted by the whole community.

T. Is there not wide agitation for laws to interfere still farther with personal liberty?

P. Yes, some people want laws to say how many hours a day a man shall work; what wages he shall receive, whether earned or not; how much he shall lay up and accumulate; and even who shall have charge of factories and stores.

T. What is the objection to government managing labor?

P. Because Nature manages it vastly better. For government to manage it, would take away the test of capacity to manage, and substitute the test of capacity to get office—so that a man might be born to develop great

39. Laws threatening Liberty.

industries and find employment for thousands of his less capable fellows, and yet be denied the chance unless he were master of the arts of the politician; while the ordinary politicians would be attempting the tasks of the great captains of industry and not have the ability to carry them out.

CHAPTER V.

RIGHTS TO THE PURSUIT OF HAPPINESS.

Teacher. Now having said our say about the rights to life and liberty, let us consider the third right claimed in the Declaration of Independence. What was it?

Pupil. The right to "The Pursuit of Happiness."

T. But doesn't that involve the rights to Life and Liberty?

P. Certainly. The best classifications will overlap.

T. But really what the fathers called the
40. A general name
for many rights. right to the pursuit of happiness, is a general name for innumerable special rights.

Perhaps we can feel our way to a scientific arrangement of them easier than we can lay it down at the start, as the rights to political liberty were laid down in the constitution. To make a very simple beginning: have you a right to pursue happiness into your neighbor's water-melon patch?

P. Certainly not.

T. You must pursue happiness under
41. Restricted, as
all rights are. some restrictions, then. Can you state the general restriction under which every man has a right to pursue his own happiness?

P. It's like the restrictions on liberty. Each man must respect the liberties of others: so he must respect the happiness of others. Every man has a right to pursue his own happiness so far as he does not interfere with another man's pursuit of *his* own happiness.

T. But how about competing with a man, and perhaps driving him out of business?

P. Competition exists between several people doing

the same thing. To race fairly, each must not interfere with any other's doing the best he can, and government should see that he does not.

T. And what is obviously the very first thing necessary to do in the pursuit of happiness?

P. To work for a living.

T. What, then, is the most important of all rights?

P. The Right to Work.

T. Is there not a marked instance where many people believe in interfering with it?

P. There is a marked instance of misunderstanding: many people do believe in interfering with the Right to Work, and the trade-unions are quite generally accused of approving violence to prevent outsiders working when men are on strike. But this is no more than half true: the trade-union rules are against violence.

T. How comes it, then, that they are so widely believed to favor it?

P. Partly because some trade-unionists, like some other people, are not as good as their laws; and partly because wherever there is a great strike, or any other excitement, there is always a gathering of violent loafers and bummers who would never be admitted to a trade-union.

T. Do the courts guard the Right to Work, as they guard any other right?

P. They try to, but it is very difficult to guard against some interferences—those that are not violent.

T. Such as?

P. The boycott, for instance, which the trade-union rules are not against. If the people on whom a man depends for business or companionship, conclude merely not to have anything to do with him, it's pretty difficult for the government to force them to. There are thousands of ways of making a man's life uncomfortable, and so interfering with his liberty, that the law can't take hold of.

T. Can you give a marked case?

P. In 1899 the workmen in Worcester, Mass., threat-

42. The Right to Work.

43 (a), Trade-union rules against violence,

44 (b), The Boycott.

ened to boycott the local baseball club, unless it discharged a man who years before had refused to join in a labor strike.

T. But can't a workingman avoid all this trouble by joining the trade-union and sticking by it?

P. Yes; but if he is not free to join or not, as he pleases, he has no liberty.

T. And is it as much Government's duty to protect him in this liberty as in any other?

P. Certainly, the Right to Work is next in importance to the right to life, because work is necessary to sustain life. If government does not protect a man's right to work, it becomes at once responsible for keeping him supplied with what he could earn for himself if he could work.

T. What duties does a man confess when he asserts the Right to Work?

P. First, of not interfering with any other man's Right to Work. Second, of doing his own work honestly.

T. Well, now under your first head, men have a right to refuse work if the wages don't suit, haven't they—to strike, in short?

P. Certainly, but that right is limited. They've no right, for instance, to stop railroad work, and leave women and children in snow-drifts, or men without a chance to get to business or back again. They should give notice enough to test the question whether enough new men can be had at the old terms. If they can't, the companies must yield or compromise.

T. But suppose giving notice enables the company to fill up with new men, what's the use of striking?

P. No use and no sense. A strike is justifiable only when it proves that new men can't be found at the old terms. If they can, the strike is proved absurd. That's the kernel of the whole subject. The new men should not stand idle in order that the old men may have higher wages or shorter hours.

T. Then how about efforts to force men to stand idle when others strike?

45 (c). *Duties
conditioning the
Right to Work.*

P. The mere making of such an effort is not only an attack on others' Right to Work, in the very act of asserting the same right for oneself; but what is more ridiculous, if possible, it is an assertion that the strike on hand has not justification enough to stand by itself, without being held up by force.

T. You said the companies must yield or compromise. Now the old terms may not be just, and yet the terms asked may be quite as far the other way, and compromising may take still more time, with all the danger of violent disturbance. Now why not throw the whole thing into court, as they do in New Zealand,* just as *individuals* have to throw their quarrels into court?

P. The New Zealand experiment proves nothing yet (July, 1900), because it has been tried only on a rising market. When it comes to a falling market and real quarrels, it will be hard to make men do good work for wages that don't suit them, or to collect fines or damages for poor work from men who have nothing to pay with, or even to get satisfactory evidence on such points (not to speak of other satisfactory court proceedings), especially where hundreds or thousands of men are to be dealt with.

T. Why not force all hands to arbitrate, then? That's simpler than court proceedings, and men are more apt to be satisfied with an arbitration, in which they appoint half the arbitrators, than with a decision by a court which is only to a very small degree of their own making.

P. The difficulties are the same, tho perhaps less in degree: there is no way to enforce the decision on irresponsible parties. You can get justice against the employer, but not against the employee.

T. Well, what *can* be done toward getting justice for the employer?

P. Help the employee to *become* "responsible": give him every fair show to grow in property and character.

T. You said the other duty of a man claiming the Right to Work, was to work honestly. Why?

* See Spahr (Charles B.), "A Country without Strikes."

P. A man asserting the Right to Work *confesses* the duty of working honestly.

T. To whom does he owe this duty ?

P. Not only to his employer, but also to society, because he calls upon society to protect him in his Right to Work.

T. But society is so big a term as to be very indefinite. If he works for wages, does society pay him his wages, or does his employer ?

P. Society, which buys the laborer's product, really pays him his wages, and has a right to its money's worth.

T. What has been claimed under the name of the Right to Work, beyond society's duty to protect it from interference ?

P. It has been claimed that it is society's duty to *provide* work for a man who cannot find it for himself.

46 (d). *Society's
alleged Duty to
Provide Work.*

T. On the strength of what duty that he proposes to discharge toward society, can a man claim that society shall find him work ?

P. The duty of working honestly, I suppose.

T. But you have already said that he owed that duty in exchange for protection against *interference with* his right to work. Do you mean that he can claim two things for the same pay ?

P. Well, perhaps he has a right to claim both things for what he proposes to pay—that society shall both find him work and keep him from being interfered with in doing it.

T. Do you see any vital difference in the two things ?

P. Yes: to protect a man from being interfered with in seeking honest work, is to secure him his right to pursue his own happiness; while for society to find work for him, is to take a share of the pursuit of his happiness upon itself.

T. Well! Why shouldn't it ?

P. Because universal experience has shown that if government attempts to do any more for people's work than to see that they are not interfered with, people get to depending upon government instead of upon themselves, become shiftless and lazy, and ultimately expect

government to feed and clothe them and do everything else for them, without any work.

47 (e). *The English Poor Law and the French workshops.*

T. What have probably been the most conspicuous demonstrations of this ?

P. The working of the English Poor Law in the eighteenth century, and of the French public workshops established after the revolution of 1848.

T. Tell me first about the Poor Law.

P. The law of 1782 required the guardians of the poor to find work for everybody who did not find it for himself, and to support him until they did. It set the lazy all over the country to living at the expense of the industrious, and to raising large families to get the benefit of the government dole for those who were too young to work. In 1834, England had to return to the old system of supporting only those who were willing to live in the workhouses, and then people generally became able to find themselves work, and the birth-rate among the useless classes diminished.

T. What was the experience in the French workshops?

P. Workmen would not hunt for work elsewhere, but flocked to them; other industries became disorganized; the officials could not turn away a man who claimed from the state the Right to Work; shops were filled faster than they could be built; but as the laborers felt sure of their places, they worked carelessly, and soon the whole thing had to be given up.

T. Well, you can at least insure people against loss of work, can't you ?

P. Even that is risky. When Germany forced its railroad employees to insure themselves even against accident, they became careless, and slow to return to work after being laid up.

T. What is the moral of all this ?

P. That Nature's method of advancing man is by forcing him to depend upon himself. Every effort to relieve him of that responsibility has led to his deterioration.

48 (f). *Public Charity.*

T. But human arrangements are not perfect. There often come times of business depression, when many deserving people who are per-

fectly willing to work, can find nothing to do. Should not government help them there?

P. That is a question of an occasional emergency, and not of the usual state of affairs, and it is more a question of public charity than of public justice.

T. Well, what should the rule be in such cases?

P. Public charity should be reserved for only grave emergencies, otherwise it does more harm than good.

T. What experience illustrates that?

P. The experience with public kitchens, soup-houses, and methods of relief of all kinds that have been thrown open to all comers. Unless such help has been restricted to those whom careful investigation proves unable, for the time, to take care of themselves, it has spread idleness and beggary among people perfectly able to provide for themselves if obliged to.

T. Has that always been the case?

P. Always, tho it has sometimes appeared otherwise: for instance, after the great period of enforced idleness of '97, there was a very encouraging evidence that of late years people have been growing in self-reliance. When the unemployed began to get work again, at least one of the free-food depots shut up because nobody applied. Whether it was a less attractive place than the others does not appear. But it was opened in an emergency, understood to be only for an emergency, and therefore not taken as a matter of course, as the French workshops were.

T. Isn't there another right essential to make the Right to Work of any value?

49. The Right to Work involves rights of Property and Exchange.

P. Of course; the right to retain or use up the fruits of one's work: the Right to Work is good for nothing unless a man can be protected in the right to the products of his work.

T. Merely the right to use them?

P. Also the right to exchange them as one pleases. If a shoemaker could exchange no shoes for bread, he would be in a bad way; or if a man working for wages could not exchange his money for nothing else, he would be in even a worse way.

T. Now what general name is given to a man's right to produce, to keep what he produces, or to dispose of it as he pleases?

P. The rights of Private Property.

T. Very good. Now if a man can exchange his property as he pleases, has he a right to spend his wages in getting drunk?

P. If other people—his family, for instance, have a right to the money he spends in getting drunk government should interfere to protect their rights.

T. But suppose nobody is dependent on him for anything?

P. A man is seldom so solitary that nobody has any rights in him; and even then, government has a right to see that he conducts himself so as not to annoy others.

T. If a man owns a thing, then, has he a right to do as he pleases with it?

P. Not if he pleases to injure anybody else, or to do anything that will harm other people more than it will benefit him (25).

T. Well, do men generally exchange product alone, or does any one man often even make any product into complete exchangeable shape from raw material?

P. Seldom. Generally things are made by a number of men who exchange their labor for money.

T. And in making these exchanges—in making all sorts of bargains, what rights arise to supplement the rights of Property and Exchange?

P. Each man's right that the man he deals with shall stand up to his bargain—generally known as rights under Contract.

T. Then as each man needs others to deal with him, in order to get them to do so, isn't there another right almost as essential as rights of Property and rights under Contract?

P. Yes, there's the right to Reputation. A man has a right not to be handicapped by any false reports that will interfere with his right to work and to hold or exchange the fruits of his work.

50 (a), Limited, like all other rights.

51. The Rights to Work, to Property and of Exchange involve Rights to Contract

52. and to Reputation.

T. Has a man the Right to Work if he bears a bad reputation?

P. If he deserves the bad reputation, of course he can't expect anybody to employ him.

T. Then shouldn't government guard a man's reputation, as part of his Right to Work?

P. Certainly, and as part of his general right to the pursuit of happiness. Government therefore punishes spreading malicious and injurious untruths. Moreover, a man can sue for damages to reputation. He has as much right to safety in his reputation as in his person and property.

T. On what duty, then, does the right to reputation rest?

P. On the duty of deserving a good reputation, of course. If a man sues for damage to reputation, and the truth of the charges is proved, he cannot recover any damages.

T. Do the groups of rights we have just considered contain all that a man needs in the pursuit of happiness?

P. In the pursuit, yes: tho there are a good many others that it would be handy for him to have, such as rights to a good bank balance, and two or three good houses, with stables full of horses, and a yacht, and a few other trifles.

T. Do you think that the Signers of the Declaration meant that every man has a right to those things?

P. No: of course they only meant that every man has a right to "pursue" them, with a fair field and no favor.

T. Well, do you even mean "them" to constitute "happiness"?

P. Probably not as often as the pursuit of them; and certainly not as often as the pursuit (not to speak of the possession) of the treasures of the mind and heart.

T. Well, we won't attempt anything so difficult as a discussion of "happiness," but will treat of its most

53. State does not furnish means to happiness, but only rights to work for them.

essential conditions so far as government can protect them, under the heads indicated. Now as to rights in property: how did people first get it?

54. Evolution of property rights. *P.* Appropriated it from Nature—took a limb from a tree for a club, or picked out a stone well shaped to hammer or chisel with.

T. Why did that give the person doing it, property rights in the thing?

P. We can't tell why; we simply know that it is so. A man's right to what he has produced or appropriated from Nature, is one of those fundamental principles that the experience of mankind has found out, just as it has found out that two and two make four, or that rights and duties involve each other, or any other bottom fact in nature. The conception of property is so elementary that if two monkeys are on a tree, and one of them picks a piece of fruit and the other tries to take it from him, we feel that the property rights of the first are invaded.

T. For the monkey to pick the fruit involved some labor. Did it involve anything else?

P. Yes: more or less brains.

T. What, then, seem to have been the first conditions of property rights?

P. The bounty of Nature, the desire for something, and intelligence enough and labor enough to carry out the desire.

T. Now when we follow the evolution of property up into man and into modern industry, what do we find to be the essentials of its production?

55 (a), *Their sources*
—raw material,
labor, ability. *P.* Virtually the same three things as with the monkey or the savage, but with the names a little changed: we're now apt to call them Raw Material, Labor and Ability.

T. But the things are changed too. Don't most mechanics use raw material that has already been produced by other mechanics?

P. Certainly: a painter's raw material is paint made by somebody else, and a carpenter's raw material is boards from a tree cut down and sawed up by some-

body else, and even a blacksmith now seldom makes his own shoes or nails; but the paint and boards and horse-shoes and nails are made of things that Nature furnishes directly—from real raw material.

CHAPTER VI.

RIGHTS TO REAL PROPERTY.

Teacher. And where did that original raw material always come from ?

56. Land and sea
the source of
Raw Material.

Pupil. From the land—its forests, farms and mines, and from the sea.

T. But does man use anything besides his own labor, and land, which we will understand as including the waters and its products ?

P. Yes, he uses the powers of Nature, such as falling water, wind, heat, electricity, and the muscular strength of animals.

T. But are not these mainly developed from the land ?

P. Certainly: to use a waterfall or tide power, a man must control the waterside; to use even the wind, he must have a place big enough to prevent others from shutting off his wind; to use heat and electricity, he must control the powers already named, or some product of coal-mines and forests ; and to use the strength of animals (including his own) he must feed them with products of the earth, or with animals that were fed with products of the earth.

57. Early Conditions. *T.* Then the land is plainly the first essential of property rights of any kind. Perhaps that has something to do with the name usually applied to it and the things affixed to it—buildings, etc.: can you tell me what that name is ?

P. Real property, or real estate.

T. Well, at the start, did everybody own it, or did nobody own it ?

P. A good deal of both. Among primitive peoples, everybody does as he pleases with the land, but nobody pleases to do much: so nobody exercises any property rights in it—nobody either tills or builds upon it, or even systematically gathers any natural produce from it; nor could everybody do so, even if they knew how, without quarreling, and the strongest man driving the others off.

T. Well, isn't that what has really taken place as our part of the race has developed—hasn't the strongest got possession?

P. Yes: as society advances, exclusive rights over portions of the land become the property of individuals; at first, by force of arms, but in recent times, by force of Ability, which we shall see more of later.

T. But as to these forces of arms and of Ability—do you mean that people having land have always taken it from men who had not one of these forces?

P. Sometimes, but by no means always. The savage king is sometimes at the head of a people glad to reward his leadership against their enemies; and the modern man of Ability, while he makes a great deal himself, generally enables those whom he guides to make more than they could make without him.

T. What's the barbarian's idea of property rights in land?

P. He hasn't any. He simply wanders where he can find game and fish.

T. Have savages generally much idea of property rights anyhow?

P. No, whether they are primitive men or the backward members of modern society. Barbarians, even when evolved up to the grade of the Spartans, have generally thought it admirable to be a skillful thief; and even many ill-balanced members of civilized society wish to take part of the property accumulated by the wise and energetic, and give it to the stupid and lazy.

T. What is the first germ of property rights in land?

P. That the tribe has a right to the territory it roams over, so that no other tribe has a right to enter it.

T. When the barbarian gets civilized enough to culti-

vate the soil, what idea of property rights in it does he develop ?

58. Communistic ownership.

P. He hasn't much even then. Barbarians simply use their land in common.

T. But what happens regarding its ownership, as civilization advances ?

P. They portion it out among themselves for a short period, and then reappportion it.

T. Can you tell me where that is customary to-day ?

P. Backward people, like the Russian serfs and the Indian ryots, hold their land on short leases from the community. But the community still owns all the land, just as it does among barbarians, and reapporions it from time to time.

T. What takes place as people progress farther than the Russians and East Indians ?

59. The Feudal System.

P. The feudal system is generally the next step in advance, and it is a step toward distinct property rights in land.

T. Describe it.

P. It is generally a result of conquest. The feudal system was (and is still, for that matter, in some backward places) that the conquering sovereign having once owned all the land, he lets his dukes and great nobles have portions on condition that when called upon, they will furnish and lead large bodies of soldiers; the great nobles parcel the land out again to petty lords and squires on the condition that each shall help make up the overlord's quota of the king's army, by furnishing and leading a few soldiers; and these petty chiefs parcel out their pieces of land again to the actual cultivators, on condition that they shall serve as private soldiers.

T. But as nobody owned anything under this system, why was it an advance on such systems as still linger in Russia and India ?

60 (a). Why an advance on communism.

P. It was the beginning of an advance, because instead of a man being shifted from one piece of land to another, as he was under the system when the community periodically took it back and redivided it, he stayed on it, and his

descendants after him, and got interested in it, and could afford to fertilize and make other improvements far ahead.

T. What was the effect of this on the progress of civilization ?

P. The feudal system was a great advance over ownership by the community which goes with primitive civilization, because a man takes care of what he has some sort of permanent claim on, and neglects what he has not. Farms on short leases are always in a tumble-down condition.

61 (b). When established. *T.* When in our own history, was the communal system distinctly changed into the feudal system ?

P. The feudal system began among our forefathers in England with the Saxon settlement and the division of the conquered lands among each chief's followers. In some of the Saxon kingdoms the system was evolved faster than in others. It can hardly be said to have become universal, however, before Cnut the Dane was able to impose a uniform rule over all England.

62 (c). Evolution of hereditary feudal relations. *T.* What did he do for it ?

P. When he conquered England, he divided what land he did not keep himself among his great jarls (earls), but only for their lifetimes. That was the first transition step toward the present system of an ownership forever, subject to only such taxes as the government may impose. At the earl's death the king was again nominal owner, but as the tenants had subdivided among a great number of followers, of course it was to the interest of these followers, as well as of the earl's family, that things should be left undisturbed; and it was also to the king's interest (unless he wanted to put a new favorite in the place) if the successor would render him the same support, in men or produce, that he had before received. But it was of course to the interest of all in possession, that no new favorite should come in and upset things, and so in time they generally succeeded by arguments or payments or threats, in inducing the king to invest the dead man's son with his father's rights.

T. Wasn't there another step between reversion to

the king at the tenant's death, and continuance in the family?

63 (d). *Guardianship, disposal by marriage.*

P. Yes: the old principle that the land was the king's and returned to him as soon as the holder died, gave the king opportunities to exact heavy payments before letting widows and children succeed to the holdings of the husband and father. This led to the king having a right of guardianship over all minor heirs, and of disposal of widows and fatherless maidens in marriage, and he generally got pretty big prices for the rich ones, and pretty large commissions out of all estates.

T. Has the government any such rights as that now?

P. None whatever. The only relic of it in England, is the Chancery Court; and in America, the Surrogate's Court, or Probate Court or Orphans' Court—the name varying with the different states. All of these try to see that nobody imposes on widows and minors, and charge very moderate fees—probably less than the cost of keeping up the court, and in some states none at all.

T. What did William the Conqueror do to perfect the system started by Cnut?

64 (e). *Domesday Book.*

P. He had his sheriffs make careful reports of all the lands in England, with the occupants. These reports made the celebrated Domesday Book. And he confiscated right and left and put all he could under feudal tenure.

T. Did he get it all systematized?

P. No: it took till the reign of his son Henry to finish up the system.

65. *Evolution of private ownership.*

T. But tell me how an ownership more private still grew out of the feudal system.

66 (a). *Scutage.*

P. The first definite step was in the twelfth century, when Henry II. (Becket's friend) needed soldiers for war in France. His tenants, like our own militia, were not obliged to fight away from home: so to get money to hire soldiers to fight abroad, he took from his knights "scutage" (shield-money) for rent, in place of military service.

T. And how did the development of private ownership progress ?

67 (b). *Leases for labor.*

P. Militarism declined with barbarism, and soldiers were needed less often: so those who controlled land began to let it out for other rewards than military service—sometimes even for farm service on the land retained by the landlord himself, to be rendered between times, when the tenant was not cultivating his leased land; and sometimes for part of the produce; and sometimes for money payment.

T. What very ill wind blew most of this good with it ?

P. The Wars of the Roses, for many years after which, the nobles had great need of money, and but little need of military service.

T. But that still left nobody permanent owner of the land but the king. How did the next advance come about ?

68 (c). *Money commutation of labor leases.*

P. By one big payment for life or for all time, in place of the annual payment; or by increased annual payments for an agreed series of years on condition that all payment should stop at the end of the time.

69. *Land-tenure in America.*

T. So in countries ruled by kings, all land came originally from the king. But what is the use of our going over all this history? Couldn't our ancestors have started on a private-property basis in America without it ?

P. Where could they have got the idea? It had to be evolved. The full-grown ideas that we take as matters of course to-day, have been the slow work—often the bloody work, of centuries.

T. Well, as a fact, how did land-tenure start in America ?

P. Before the Revolution, the kings of England, France and Spain, gave much of the land in America to individuals and companies, and these divided it up among the people of the settled portions. In time, most of the land not so divided up came, in one way and another, into the possession of the United States government.

T. What has the government done with it ?

P. It has kept some still, has thrown some open to rights of ownership by settlers on various conditions, sold some to individuals, reserved some of it for National Parks, given some to the separate states, given some to the Pacific Railroads and a few other roads, so that they could sell it for money to build the roads; and given some to the states in aid of agriculture, the states having in turn given it to educational institutions which sell it to get money to pay expenses

70. Land-tenure similar among all peoples of the same grade. *T.* Do all the systems of use of land which you described before, exist somewhere in the world now?

P. Yes, there is plenty of land that is in the condition now that all land was in once—desert, or with savages roaming over it—land which virtually no one owns. Then there is land in every one of the conditions of tenure which we have been describing:—among many partly civilized people, there is common land, and feudal land; among civilized rural communities there is much land let out for a share of the product; and in both rural communities and cities where civilization is at its height, there is land whose rents are always paid in money; and last of all, there is much land in both city and country owned by those who occupy it.

T. What was the effect of private property in land when it did become established?

71. Private property in land a great stimulus to Ability. *P.* With private property in land appeared the first chance for everybody with talent and energy to get possession of it and of the social consideration which possession brings. This was the first offering to energy and invention, outside of war, politics, and the church, of the great prizes that have made the difference between the forest-community with no letters or arts, and the age of books, schools, libraries, galleries, orchestras, steam, electricity and world-wide travel—in a word, modern civilization has grown up with private property in land.

T. Do you mean to say that civilization has been the work of a few prize-winners, or at least prize-seekers—the men whom the chance of private property stimulated—

that it has been the work of individual men, and not of the race ?

P. Precisely that: it has been the work of a few able men guiding the rest. Civilization has arisen only under conditions which permitted all men to get what they could, and keep what they got. That gave the able man his chance.

T. But isn't the strong man's chance at the expense of the weak ?

P. Often in barbarous times, but seldom in civilized times: a civilized government tries to give *all* men a chance to get all they can and keep all they get: so under a good government, the strong man seldom gets anything away from the weak one.

T. Where can the strong man get it, then ?

P. From Nature, through energy and invention.

T. But how does widening and securing the range of private property, lead the strong man to work harder and invent more ?

P. By making his prizes greater and increasing his hold on them.

T. Doesn't it do the same for the weak man ?

P. Of course, it does even more for him: it not only stimulates him to do his little best, but gives him a protection that the strong man doesn't need because he takes care of himself.

T. Isn't there another advantage to the weak man under a constitution that recognizes and secures private property ?

P. Yes: the strong man will be stimulated to reclaim and cultivate so much more land, and to make so many more things, that he will find much more profitable work for the weak man to do, and provide much more for the weak man's good. That is proved by the wonderful increase in rich men's gifts for the general benefit.

T. Is the proportion of absolute private owners of land increasing as civilization advances ?

P. There is no more marked evidence of the progress of civilization than the relative increase in the numbers

72. The strong man's chance not at the expense of the weak.
73. Proportion of private owners increases with civilization.

of private owners of land, and there is no better field for philanthropy or strengthening the state than increasing the number of those who own at least their homes.

T. Can you give me an illustration?

P. Napoleon made it the law in France that the land of a person dying should be divided among all his children. This has produced an immense number of private owners, and they are among the richest and best citizens of their class in the world.

T. But couldn't this dividing up be carried to a point where the heir's farm would not be big enough to support him or pay for using expensive machinery?

P. Yes; but then he can sell out and go to manufacturing or shopkeeping. The difficulty would cure itself.

T. What other country shares with France the leadership of the world in wide dissemination of the ownership of land?

P. Our own.

T. Is this fact of importance to us?

P. Very great; the large number of people owning their own farms and their own homes in America, probably does more in the desperate fight to keep the government prudent and patriotic than all other influences put together.

T. Why?

P. Any man owning land *must* pay taxes—he cannot hide his land from the tax-gatherer; therefore he must have a stake in honest and economical government.

T. Do those French peasants make better incomes than other small farmers, who *lease* their land?

P. Certainly, just as our farmers who own their land, generally make better incomes than those who lease it.

T. How do you account for the superior prosperity of such farmers?

P. Because a man cares for that which belongs to him in a way that he cares for nothing else, and enjoys caring for it in a way that keeps him cheerful and capable.

T. Isn't that a rather selfish doctrine?

P. No: the more cheerful and energetic a man is, the

74. Landowners the best guardians of government,

75. and the most thrifty citizens.

more he produces; and the more that is produced, the better for the whole community, because the cheaper it can be sold to those who don't produce it.

T. Haven't some people pushed reason-
 76, Exaggerated
 claims from the fore-
 going advantages, extremes?

P. Yes; to at least two.

T. What is the first?

P. They say that as every person born
 77 (a), *The right to*
a home. has a right to exist on the earth, and there-
 fore a right to a place of existence—to a
 home, every person is entitled to own a piece of land.

T. Against whom is that right good?

P. It's hard to see how it can be good against any-
 body but his parents. Nobody else ordered him here.

T. But has a man with a little or no land, a right to bring
 into the world as many children as he pleases, and require
 other people to give them a part of their land?

P. The only condition upon which a man can claim a
 right to land or to anything else, is, of course, by perform-
 ing the duties which correspond to the right (24, 26),
 either by appropriating what nobody else had a right
 to (54), or exchanging for the land, something he had ap-
 propriated or produced.

T. Very well; but suppose you could give every man a
 piece of land, how long would most of them keep it?

P. Until they could sell it or give it away—one can't
 always do either. It is now very hard to keep people on
 the land; they are flocking more and more to the cities,
 even if they have to live in tenement-houses.

T. But how about the Salvation Army's farm colo-
 nies?

P. Excellent as far as they go. But so far, they have
 got only five hundred people out of three million they
 say they ought to have. With more money they would
 get more, but not enough to reverse the rule.

T. But isn't there a great outcry against holders of idle
 land for keeping the starving millions away from it?

P. Yes: there's always a great outcry against holders
 of anything, by those who do not hold anything.

T. What is the second reason given for the claim

that every man has the right to own a piece of land?

P. That every man has a right to a living, and that as everything that sustains life comes, in the first instance, from the land, every man has a right to enough of the land to make his living out of.

T. What's the answer to that?

P. There are two: no healthy man has a right to a living unless he earns it, or gets it honestly from somebody who did earn it; and there are endless ways of earning it without owning land: as already stated, most people can't be forced to make their living out of the land.

T. Does every prosperous man own land?

P. Far from it: many very rich people do not *own* any land; and in fact, not one American in ten *owns* any land. So it does not seem necessary that, to have a home and make a living, a man must own land.

T. As a fact, can't any energetic poor man, under ordinary circumstances, get a farm to work if he wants it?

P. The older parts of the country, New England and the South, abound in empty farms begging for tenants to work them on shares, and so does the new Western wild land; there is plenty of open land and sunlight and fresh air within easy reach of the people who are packed in the city tenement-houses, but they won't go to it.

T. But to work land, a man requires capital—money, horses and farm machinery. Isn't it because they haven't that, that they won't go to the land?

P. No: the men who have farms and capital to work them, are suffering because they can't hire labor, and all the while people are working in other pursuits, at worse wages, and penned up in city tenements.

T. But if the laborer went to work on another man's land, that would not make him its owner. The laborer's not going for hire does not prove that he would not go if the land were his own. Is there any answer to that?

P. It has already been given. Those who own land are leaving it more and more. If anybody else wants any, he can prove his right as he can to anything else, by earning it.

T. So far as observed, have those who object to private ownership of land generally shown any inclination to work the land or improve it, or any ability to do it if they try?

P. Very seldom. That objection is of course most generally made by men who have not had much success in any other pursuit, and that is a poor show for success in farming. It certainly requires as much ability as any other ordinary pursuit. People are constantly taking up land who can't support themselves on it, and who end by working for the people with the Ability to show them how.

T. What do you think, then, on the whole, of the statement that everyone is entitled to a portion of the earth?

P. I don't see that it makes much difference whether everyone is entitled to a portion of the earth or not, as long as those who are able to do anything with it are generally able to get it; and those who are not able to get it, would not generally be able to do anything with it if they had it.

T. So much for the exaggerations of the advantages of private ownership. Now are those guilty of these exaggerations generally consistent?

P. About as consistent as people given to exaggeration usually are. Those who thus exaggerate the benefits of private ownership of land, generally propose to do away with it altogether—they generally propose that government shall take all the land, and that everybody who uses any shall pay rent to government, instead of as now, owning it without rent, or paying rent to a private party.

T. But if government did take all the land, and paid for it and rented it to the people, could that make any difference?

P. Certainly not to people now paying the rent, unless they should pay less rent: then it would be simply a scheme for government making a present of the difference to anybody who wanted land, at the expense of those who did not.

79. Land valueless to all but Able men.

80. Proposed reversion to government ownership.

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T. If, when this speculation was proposed by John Stuart Mill, the English government had gone into it, how would the speculation have turned out?

P. The landlords would have been the gainers at the expense of the rest of the community. At a fair price, the lands of England would have cost the government more than they were worth fifty years later: so far have our wheat and cattle, and those of Australia, taken the place of England's productions.

T. Last of all, then, is the state apt to make a good landlord?

P. The state has more to do than it does decently or honestly, already. It had better not go into the landlord business too.

T. But would government's taking all the land and renting it to the people, make any difference to anybody besides the poor?

P. It would help the taxpayers: for the state would receive all that rent-money.

T. But where does the state get most of its money now?

P. The landlords pay most of the taxes now: in New York and Massachusetts, for instance, four-fifths of those collected directly; and most of the other fifth—the taxes on personal property, are undoubtedly also paid by the persons owning the land.

T. Then after all, would the scheme be as broad as long; for wouldn't government ownership put the land in new hands?

P. Why should it? If anybody wants land and has the money to pay his rent, he can get it now. What difference would it make if he got it from government?

T. Well, so far as we've got, there doesn't seem to be any rhyme or reason in the thing. Now isn't there some "true inwardness" that we've not yet attained to?

P. Yes: all these foolish notions that we've been considering are given as reasons why government should either tax away all present value in the land, or should

81. Landowners support the government under either system.

82. Some advocate robbery, which would disappoint them.

take it *without* paying for it, and rent it to those wanting it, and devote the proceeds, above the present amount of taxation, to public works and the benefit of the poor.

T. That would at least be helping the poor at the expense of the rich, wouldn't it?

P. No, not even that entirely: for many of the rich have little or no land—many owners of large tracts are land-poor with their holdings mortgaged for more than they're worth, and many of the poor, if they had land, wouldn't keep it as a gift.

T. But certainly the scheme would help *some* of the poor at the expense of *some* of the rich?

P. Yes, and it would help more of the rich at the expense of all of the poor: for any attempt to carry out the scheme would make, for a time, the greatest financial upset ever seen, and there never was a financial upset yet, in which the rich didn't generally hold on to what they had, and buy cheaply what the poor had to part with at forced sale.

T. But don't those who advocate the scheme *think* it would help the poor?

P. Yes: but it's only one of half a dozen schemes to help the poor without their helping themselves, which are all equally crazy, and which we'll see more of as we go on.

This world was plainly made for the people who help themselves, and there's been no way discovered for anybody else to get much good out of it.

T. You mean helping oneself is the only way to get any good?

P. No: more still can be had from helping one's neighbor, but a man can't do that before he takes reasonable care of himself.

T. We will more fully consider the questions of the care of the poor, when we come to treat of government's promotion of convenience. For the present we're busy with its protection of rights. Now (outside of alleged "public policy," which we have considered already), isn't there moral justification alleged

83. The only way to help the poor is to help them help themselves.

for protecting the rights of the community by robbing present holders of their land?

P. Yes, twofold: first, that the land originally belonged to everybody, and was wrongfully seized by those from whom its present owners got it, and therefore should go back to everybody; second, the famous "unearned increment" argument.

T. We'll take that later. What do you say now to the spoliation argument?

P. There's no evidence for it, except in such cases as when Europeans dealt with Americans and Africans. If most of the land in Europe and Asia was stolen by the original grantors of its present owners, it was "stolen from a thief": for it had been conquered and reconquered over and over again. The rights of the present owners are vastly clearer than any other rights that could be presented: those who want to stand in their shoes can't prove any rights at all: if they could, courts are generally open to them.

T. But take the cases where civilized people have robbed barbarians—our ancestors in America, if you please.

P. That might be a reason why the present owners (including the heirs of Henry George) should give it back to any heirs of the savages they can find, but it can't possibly be a reason why the owners who are not heirs or followers of Henry George, should give it to those who are.

T. But how about the original rights of the barbarians?

P. They hadn't much idea of any such right themselves. Those rights take shape only as a civilized community grows up on the land.

T. But some people we call barbarous do use their land. How about the cases where land has been taken from barbarians of that kind?

P. There are very few such cases, and in most of them it is too late to find anybody representing the barbarian owner; and even if it were not, it is too late to do justice to the former interests without doing more injustice

84. The moral arguments—original general ownership.

to interests now vested. Many a piece of land which was never worth a dollar to the barbarian is worth millions to present innocent holders.

T. Well, as a matter of abstract justice, you might give the barbarian the dollar if you could find him. Shouldn't all injustice be remedied if possible?

P. Yes, but that is not what Henry George's followers are after. Yet of course in theory, justice should be done if it were possible, where civilized people have got possession by force, and not, as Penn did, by bargain.

T. You think, then, that Penn's buying a great state for a few beads was a fair bargain?

P. Certainly: that was more than it was worth to the savages. The fact that civilized men have made it worth more, is not a fact that the savages are entitled to any benefit from.

T. In a similar case, then, you suppose that those who sold the site of the city of Chicago less than a lifetime ago, for a mere song, are not entitled to any benefit from what later owners have done with it?

P. Certainly not: what the latter men have made, is their own.

T. Suppose the site had been obtained by fraud, ought it not to be given back to the original owner if he can be found?

P. No: if we're arguing questions of public policy, such a doctrine would stop all enterprise—nobody could build or cultivate with guarantee that some far-back landowner or his heirs would not come along and claim the land and, of course, all on it.

T. But can anybody get a good title to land or anything else through fraud?

P. No.

T. And can anybody convey any better title than he has himself?

P. No.

T. How then can a title obtained through fraud fifty or a hundred years ago, and passed from hand to hand since, be anything but a fraudulent title?

85. Attempt to remedy injustice sometimes only increases it.

P. Receiving an old title, good or bad, is not the only way to get a good title.

T. What other way is there?

86. Performing duties of ownership breeds rights of ownership.

P. Using the land, or at least paying taxes on it, or doing other duties incident to ownership. The law provides that anybody who performs duties of ownership for a reasonable time (usually twenty years) during which nobody else has performed any, has a perpetual right to it.

T. Even if the land clearly belonged to somebody else at the beginning of the twenty years?

P. Yes.

T. What can justify such a law?

P. At least three good reasons: first, no one has a right to neglect his property so far as neither to use it himself, nor assert ownership while another is using it; second, if an owner won't use land, it is an advantage to the community to have somebody else use it; third, if a man honestly comes into a title that was originally fraudulent, and the rightful owner does not assert his claim within a reasonable time, the honest occupier should not be disturbed in the enjoyment of whatever improvements he may have made for his own benefit and that of the community.

87. Rights in improvements.

T. Then why not settle the matter by letting a claimant after twenty years of another's adverse occupancy, pay for the improvements?

P. That has been tried but found to discourage improvement, because the motive to improve is not merely to get back cost, but to develop a profit.

T. You said there were two justifications urged for the proposed robbery of present owners of land. We've disposed of the "original robbery" one, now what's the "unearned increment" one?

88. The unearned increment.

P. Wherever population grows, land increases in value. If a man owns a lot worth a thousand dollars in a village of, say, a thousand people, if that village grows to contain two thousand, the value of the land is apt to be increased by the coming of the second thousand, and it is claimed that the community is entitled

to the increased value, because the increment of value is "unearned" by the owner of the lot.

T. Well, isn't that all good reasoning?

P. It's all shallow nonsense. The second thousand doesn't do anything to a former resident's lot, and certainly the first thousand doesn't, so how can either have any claim on its increased value? The owner is the only person who does anything to it, even if he only pays the taxes on it. If he starts an industry on it which increases the population, he does something to increase the value of every piece of property in town, and he, if anybody, is entitled to the unearned increment.

T. Does anybody propose to give it to *him* if he is?

P. No. The "unearned increment" advocates claim that it should be given to those who have *not* built anything—to the poor.

T. What is the effect of increase of population on the business of a newspaper or a store or a blacksmith shop?

P. Increased population must bring all the unearned increment to business that it does to land, and more: for all the increment that that land can get, it must get from increased rent paid by business of some sort, even if that business be farming.

T. You say "increased rent." Suppose a man owns it himself?

P. Scientifically speaking, all benefits coming from the use of land are "rent," no matter who gets them.

T. Well, whatever we are, let's be scientific. Is not every man who does his work well, constantly benefiting others?

P. Certainly: every capable and honest man who does something to improve the lives of people, raises the value of land near him, but that gives him no right to any but an incidental share in the benefit he confers on his neighbors—except that it does make it fair that his neighbors should reciprocate by being capable and honest too, and so conferring benefits on him.

T. Has the community any more right, then, to partly take possession of land by taxing away the unearned

89. (a). *Not characteristic of land alone.*

increment, than by doing the same to the unearned increment of the blacksmith's business or the newspaper man's or the butcher's or baker's or candlestick-maker's?

P. There is no apparent reason why it should.

T. If government took possession and leased out the land, could government get people to bid for the chances of the unearned increment on unoccupied lands, just as they invest in such chances now?

P. Certainly not, if it were accompanied by the features that the advocates of the lease always urge—that government should tax away the unearned increment.

T. And after all, how much unearned increment is there to tax?

P. That is largely a question of time and place. Prof. Mayo-Smith says: "From the experience of England . . . it may well be questioned whether the present ground-rents of agricultural land represent more than a fair return for improvements made. So too, in regard to the unearned increment, it appears that there are numerous losses as well as gains, so that it is doubtful whether, on the average, and in the long run, land property is any more advantageous in form than any other kind of property."

T. How does the idea of everybody being entitled to a piece of land, or of government appropriating it for the general good, fit in with the advance of civilization?

P. It is simply a proposition to return to the half-civilized communal system—to go back to where India and Russia are, and wipe out all the stimulus to careful and energetic and forethoughtful management, that rests in private ownership.

T. Aside from the impossibility that a man should do much for a farm that he holds for a short time, can you think of any reason why the communal landholding of backward nations helps keep them backward?

P. Yes, habit and the chance to get land for nothing incline such people to keep on working the land: therefore fewer people are led to manufacturing, commerce, and the other pursuits which perhaps do even more than

90. All schemes to abolish private ownership are retrogressive.

the primitive and sequestered one of farming, to advance civilization.

T. But you said that in America it is hard to get people to take up the abandoned farms, yet you say that in Russia it is hard to get them away from the communal land. Can you explain the difference?

P. Yes: the Russian and his ancestors have been so long under the deadening influence of communal land that he cannot rise above it; but the American has always been planning ahead for his own land, so the habit of thinking a long way ahead and outside of his daily round has been formed in him by the private ownership of land.

T. But, after all, is the management of land simply the owner's lookout, or that of the holder for the time being? If he doesn't manage well, is he the only one to suffer?

P. By no means! Everybody depends
91. Private property
in land of universal
importance. on the land, whether he owns any or not, for his food and clothing and everything he uses, except what comes from the sea. So it is to everybody's interest that the land should be managed in the most careful and productive way.

T. And what is the first essential to careful and productive management?

P. The first essential to careful and productive management of land or anything else, is that a man should be sure of reaping where he sows—of getting the results of what he plans—that he should own the thing he works upon.

T. But very few people own the things they work upon—even the farms, not to speak of the factories and shops.

P. So much the worse. As a rule, a man ought to own the thing he works upon, and in time most men will.

T. How is that possible? Hundreds of men work on a single railroad or in a single factory, or even on a single farm; they can't each own it.

P. No; but things are rapidly shaping themselves so that each can own a share in it, if he's economical enough and wise enough to do any owning at all (168).

T. It ought to be plain by this time that it is as much the state's duty to protect rights to land, limited like all rights, as rights to life or liberty. But we saw that it sometimes becomes the state's duty to limit the citizen's rights to life or liberty. Is the same true in regard to his rights to land?

P. Certainly, whenever the greatest good of the greatest number requires it, the state should take the citizen's land.

T. Without paying for it?

P. Despite the theories we have been considering, experience seems to prove that a case where the state should take it without paying for it is not apt to arise. At least the fathers of our government were so well satisfied that it never can, that as early as 1791, it was provided in the Constitution that land taken by the National Government for public uses must always be paid for.*

T. What are the two principal sets of circumstances under which land is so taken?

P. Sometimes the right to take it at a fair valuation is given to citizens working for the public accommodation—to railroad companies and water companies, for instance. In the second place, the state itself constantly obliges holders to sell their land for the use of legislatures, courts, custom-houses, post-offices, police-stations, forts, barracks, dockyards, roads, railroads (where the state builds them), and many other purposes.

T. But what right has the state to enable a railroad to cut a man's farm in two, or perhaps tear down his very home?

P. The greatest good of the greatest number requires that a railroad should take a direct way, instead of being obliged to zigzag only where people are willing to let it go.

T. And who is to decide when the greatest good of the greatest number requires the railroad in question?

P. The government, usually through some form of legislation; and if the justice of the law is disputed, it must also be passed upon by the courts.

* Amendment V.

T. Now, besides deciding that the road would be for the greatest good of the greatest number, what must the state do ?

P. Give the authority to lay out the road, and compel people to sell the right of way at reasonable prices. Where the parties can't agree on values, the courts appoint commissioners to fix them.

T. What is the right of the state to take land or authorize citizens to take it, called ?

P. The right of Eminent Domain.

T. Is there no other condition placing the citizen's rights in land at the disposal of the government ?

P. Land can be taxed, of course, like everything else, and sold if the taxes are not paid.

CHAPTER VII.

LAW OF RIGHTS IN REAL PROPERTY.

Teacher. Now we have some notion of the rights of property, especially as concerns the land. Next let us consider the rules under which rights are protected and transferred. What are those rules called?

94. The Law in
general.

Pupil. The Law.

T. To get a thorough knowledge of the law, about how much would one have to read and remember?

P. No man ever had a thorough knowledge of the law. It is the most colossal product of the human mind. Yet many men have thoroughly known its outlines and some of its parts.

T. Well, how much must one read and remember to have a good working knowledge?

P. He must know some dozens of big volumes well, and also know how to consult some thousands.

T. Where did this immense mass of rules come from?

P. It has been evolved slowly from many sources. The two principal ones have been (first, of the Statute Law) rules made by legislative bodies from primitive tribal assemblies down to modern parliaments, congresses, and state legislatures. Perhaps in these we should even include the ordinances of local governments. And (second, the Common Law) decisions made by lawyers, including rulers and judges, the judges in primitive times having generally been priests. These decisions have been handed down, first by tradition and in modern times by a very thorough system

of printed reports, with elaborate summaries (called digests) and indexes. These volumes of reports now make up the bulk of the law. They are consulted in all important trials, and arguments and decisions are based on the points of the case in hand which have been decided in previous similar cases. Moreover, the growing wisdom of the ages has been shaped into a number of maxims, some of which we shall see hereafter (117, 309, 313, 320, 338, 360, 364, 443), that have great authority in the law. Many of them are in Latin, dating back to the time when all our legal proceedings were conducted in Latin—some of them even back to Rome. From judges' decisions and maxims, learned writers have made many volumes showing which way the weight of opinion has gone in various classes of cases. These constitute what are called the "text-books", on such subjects, for example, as Real Property, Contracts, Evidence, Corporations, and hosts of others.

95. Real Estate and Personal Property. *T.* Well, we'll hardly get a thorough knowledge of them in our present limits, but some elementary notions are worth having. We'll begin with a few considerations touching the land. First tell me again what name is given to property rights in land and the things fixed to it.

P. Real Property, or Real Estate, or, for short, Realty.

T. And what to movable property?

P. Personal Property.

T. And what did we find was probably the reason for calling land and the things fixed to it, Real Property?

P. Probably because it is the source of all other property, and it looks as if it was also because land is less apt than other property to slip out of sight.

T. But are the rights in real property any more "real" than the rights in personal property?

P. No. The name deceives most people. Real estate usually fluctuates more in value than in personal property, and is generally harder to exchange for other things.

96. Laws protecting ownership. *T.* First, then, as to *protecting* the enjoyment of property rights in it: has anybody a right to enter your house or grounds?

P. Certainly, for any reasonable purpose.

T. To make a short cut on foot or with a team ?

P. Not if I object, tho unless the person were doing some real harm, the juries would probably give me less damages than my lawyer would cost.

T. Suppose you have posted up a notice forbidding persons to enter ?

P. Then greater damages would probably be given me.

T. Suppose you order a person off, and he refuses to go, can you use force ?

P. Yes, but not enough to do him serious injury.

T. If you can't get rid of him without doing him serious injury, what can you do ?

P. Send for the officers of the law.

T. Suppose they can't get him off without seriously injuring him ?

P. Probably they can: for they have a right to call upon everybody to help them.

T. But suppose they can't ?

P. An officer of the law can use all the force necessary, even if it kills his man; but he must be careful not to use more than necessary.

T. But suppose that, in the course of the argument, the stubborn gentleman seems likely to injure somebody else ?

P. Everybody has the right of self-defence, up to any point.

T. Suppose after the officers get him off, he comes again ?

P. If he keeps it up, I may have to get an order from a magistrate prohibiting him from coming on; and if he violates that, he will be shut up for contempt of court.

T. Suppose a man squats on your land and builds a shanty there ?

P. I can remove him and his shanty, if it is possible to do so without violence.

T. Suppose it is not ?

P. Then I must appeal to a magistrate to order him off.

T. Suppose, during your absence, somebody has built

upon and improved land of yours, claiming it as his—perhaps under a mistake?

P. I must go to court for an order of ejectment, which will be granted unless the occupant shows a good case.

99. Laws affecting transfers. *T.* Now as to *transferring* property rights in land. As preliminary, however, tell me how ownership of *personal* property is generally transferred.

P. By delivery.

T. And how is it generally recognized?

P. By possession—the property usually being near the person of its owner.

T. But you can't deliver a piece of land, and it can't always be near the person of the owner, unless it happens to be his home estate or the location of his business. So how can ownership in real estate be transferred and recognized?

P. In old times, the man who made the grant, and his grantee, walked around the property together, generally with witnesses, and then the grantor delivered to the grantee a token of possession, such as a piece of the soil or a twig from one of the trees.

T. In your reading, you may often come across a technical phrase for this ceremony. What was it called, and why?

100 (a). *Livery of seisin.*

P. "Livery of seisin." Livery is plainly connected with delivery, and seisin is connected with the fact that in early times (and even now in law phrase) the owner was said to be "seised" of the property—a suggestion that in rude times "seisin" was not always connected with "livery."

T. Is livery of seisin the usual method even in our gentler age?

P. No, tho it does survive in some remote and primitive regions, even where the present method has grown up beside it.

T. What is the present method?

101 (b). *Statute of Frauds requiring written evidence of transfer.*

P. By a written "deed", of which a copy is usually registered at the chief town of the county. Certain statutes to guard against frauds (the principal one of which,

generally known as *the* "Statute of Frauds", was passed in the reign of Charles II.) provide that contracts relating to sale of real estate, and certain other things, which we will consider later (329) must be in writing, tho now in many states, statute permits a verbal lease for a year. Usually, now, when two parties have agreed on a sale of real estate, they at once put their agreement in writing—generally by filling out and signing a printed form that the lawyers' experience has led the stationers to prepare, and the purchaser generally pays something on account, which will be forfeited if he does not carry out the contract.

T. What have we to do with a law passed in England under Charles II.?

P. We were generally governed by the English laws until the Revolution; and when we dissolved our connection with Great Britain, each state enacted that the laws of England should prevail within its borders when not in conflict with laws made by its own authorities.

T. Have all states so enacted?

P. All but Louisiana, which is still under much of the law she received from France.

T. To return: is part-payment necessary to make written contract valid?

P. No: as we saw, under the Statute of Frauds, writing alone makes the contract valid, if it is valid in other respects which we will consider later.

102 (c), *Contracts of Sale.*

T. What does the written contract of sale usually say?

P. That in consideration of blank dollars paid to A by B, A agrees to sell and B agrees to buy a piece of land described. That the price shall be blank dollars, so much payable on the signing of this contract, so much on the delivery of the deed at some specified time and place, and (if there are any deferred payments) so much at other times specified, the deferred payments to be secured by a mortgage (114).

T. What is a deed?

103 (d), *Deeds.*

P. Any instrument sealed as well as signed.

T. You mean sealed up ?

P. No. In old times before men generally—especially the great fighting characters who owned most of the property, knew how to write their names, it was the custom to authenticate written instruments by putting on a seal after the words declaring that the instrument was the parties' free act and deed; and even after it became general to sign the name, on specially formal instruments it remained customary to put the seal also, and the name "deed" was retained for all instruments under seal, tho in popular use it generally means a conveyance of land.

104 (e), Seal and Its effect. *T.* Must the seal still be an impression of some device peculiar to the grantor, and on some impressible substance ?

P. Not generally: in most of the states any spot of some adhesive substance will do; and in many of the states a mere scrawl of the pen, with the word "seal" written in it, is enough; or perhaps even without that word, if the position and nature of the scrawl make its purpose plain.

T. Has any instrument under seal any distinction but in name from one not under seal ?

P. Yes, where an instrument is under seal, the court takes it for granted that the price or other consideration (305-8) was fair—the grantee need not prove that it was, and the grantor is not permitted to disprove it unless mistake or fraud is alleged.

T. Do all deeds convey an interest in land ?

P. No: instruments for other purposes are often put under seal.

105 (f), Essentials of deeds. *T.* What points are essential in a deed of real estate ?

P. It must name the persons, preferably with the town, village or city of the residence of each, clearly describe the property, name the consideration for the transfer, clearly state that the land is transferred to the grantee to be held by him, and in order to be recorded (which, as we shall see hereafter, is important), must be witnessed by a notary—that is, must contain a notary's certificate that the signature was acknowledged before him, and if it is not

to be recorded in the county where the notary acts, his signature must be attested by a certificate from the clerk of the county.

T. Is it sufficient to name the grantee, or should something be said about his heirs?

P. It often has been held by the courts that unless property is conveyed to the grantee *and his heirs*, only a life-estate is conveyed.

T. Isn't there one other point necessary if the grantor is married?

P. Yes, in all the states, if a married male grantor dies, his widow would have an interest for her life (called her dower), in one-third of the property, unless she has relinquished it in the deed; and in some of the states, the old law still exists that if the grantor is a married woman and should die, and if she had had a child by her surviving husband, unless he had joined in the deed he would be entitled to the use of the property for life (called the courtesy of it).

T. While you say that the steps already recited are the only ones *necessary* to a deed, are not others desirable?

P. Unquestionably. Questions regarding deeds have been coming before the courts for hundreds of years, and lawyers have been shaping the expression of deeds so as to prevent such questions arising after the transaction: so it is very well to follow forms that experience has approved.

T. But have there been any embarrassments regarding this?

P. Yes, the lawyers have gradually loaded up forms of deeds with so many provisions and so many legal phrases, that common patience couldn't read them, or mere common sense understand them.

T. Is this experience restricted to deeds?

P. By no means. The whole business world knows it. Business men who habitually make written contracts for any specific purpose, and often print them, find that new features keep arising in the course of experience, which they try to provide for in subsequent contracts.

106 (g). *Dower and Courtesy.*

107 (h). *Value of established forms.*

The number of these provisions often so swells the printed forms that a fresh start with simple ones, is found desirable, even at the risk of leaving some contingencies to be settled when they arise.

T. Has there been anything done to remedy this unwieldy growth of legal forms?

P. Yes, the most progressive states have provided, by legislative statute, brief and simple forms for both deeds and mortgages.

T. Is the use of them imperative?

P. No, probably nowhere. It is only recommended and given the full sanction of the law, yet timid people who want to provide in advance for everything that never happens, can make their instruments as labored as they please.

T. Why are real-estate sales usually completed so long after the contract is made?

P. Because delivery and possession cannot be as simple as with personal property, and it takes time to arrange for them. If a man has a piece of personal property in his possession, and delivers it to you for a consideration, the law will not go back of that delivery for any reason except the property's being stolen. But a small portion of the world's real estate is in plain possession of anybody—a man driving with you in the country, or even standing with you in a portion of the city, could easily say: "This property is mine," and sell it to you when it was really somebody's else, or mortgaged to somebody, or burdened with some other rights of somebody.

108 (i). *Registry,*
Title-search.

T. How has the law provided against that?

P. In early times, as writing became general, records were made of the ownership of property. They began, in our race, with William the Conqueror's Domesday Book. As our country was settled, each commonwealth parceled out the land among the people, and gave them deeds which were put on record (or registered—the words are used interchangeably), usually in the county where the land is situated. Each transfer since has been recorded. When any important contract affecting

land is made, the grantee, if he has ordinary sense, has the records searched to find if the title is good—that is, if his grantor has a good deed from a chain of persons who had good deeds back to the first grant by the state.

T. Does he make any other search?

P. Yes, he also looks into the record of mortgages and other serious burdens on property, to see if the property in question is free from them, and writes to the clerks of all the courts in the county, to see if they have any unsatisfied judgments.

T. What is a judgment?

P. A decree of a court against a loser in a suit, which is put on record, and which makes all the property of the person against whom it is issued, liable for the sum decreed by the court.

T. Is all this trouble to search always taken?

P. No: sometimes when the honesty, intelligence and solvability of the grantor are above all question, his word is taken; and sometimes if the title is without cloud for twenty years, (otherwise in some states,) the Statutes of Limitations are relied on for all earlier time.

T. What are the Statutes of Limitations?

P. The principal one was passed in the reign of Charles I., and the effect of them on real estate in nearly all cases, is to prevent any claim taking effect unless it is urged within twenty years of any adverse holder taking possession. After anybody has held land unopposed for twenty years, the law presumes that he had a grant of which evidence has been lost. So if the title is found clear for twenty years, it is often considered a good risk (86).

T. What is a right by prescription?

P. One that has been used without dispute for the time required by the statutes of limitations in the state where the land is situated. Then the right becomes legal, even if it covers the ownership of the property. Such rights, however, are often for less privileges than those of ownership, called appurtenances (127). Such rights sometimes may so encumber land—for in-

109 (j), *Judgments*.
110 (k), *Statutes of Limitations*. *Pre-*
scriptions.

stance, by preventing building in certain spots, as to be serious clouds on title.

T. Isn't there a way of saving the trouble of searching the records ?

P. Yes, you can insure against a bad title just as you can against a fire, but the company generally first hunts up the title for its own sake, tho the older companies have searched titles of so many pieces of land that they often have to search only back to the time of some recent search, besides, of course, making inquiries regarding judgments, to the clerks of the courts.

T. Does the grantee usually make his search himself ?

P. Oh no: so many questions are apt to come up, that a good lawyer is needed.

T. And if there is a cloud on the title ?

P. Either the trade is called off, and the earnest-money returned, with interest, or the parties agree to keep the trade open for some fixed time, in the hope of paying off incumbrances or otherwise clearing the title.

T. Must this agreement be in writing ?

P. Of course, under the Statute of Frauds; tho there being one written agreement already, the courts would probably wink at a reasonable delay in making another, as some time would be needed to settle its conditions.

T. Must there be a consideration for the adjournment of passing the title ?

P. As it is probably for the mutual convenience, the mutuality would generally be deemed a consideration, tho the general view is that the original consideration holds over for the adjournment.

T. Well, if the title is found all clear of outside claims, what is the next step ?

P. On the appointed day, the grantor gives the grantee a deed.

T. Suppose there is no cloud on the title, and the deed is made out all right, and the

grantor dies before the deed is given to the grantee or to somebody else for him, does the land pass ?

111 (l). *Title Insurance.*

112 (m). *Clouds on title.*

113 (n). *Delivery of deed.*

P. No: if the grantor dies before the deed passes out of his possession, the deed takes no effect.

T. How about any money the grantee may have paid in advance?

P. He has a good claim on the estate for it.

T. What is a mortgage?

P. A right to sell a piece of property, 114. *Mortgages.* real or personal, if the owner of it (the mortgagor) does not, by a certain time, pay a debt due the person holding the right (the mortgagee).

T. Do all of the proceeds of such a sale belong to the mortgagee?

P. Originally they did, but now the excess, if any above the loan with interest and expenses, belongs to the mortgagor.

T. You spoke of the progressive states suggesting forms for mortgages too. Wherein does the form of a mortgage usually differ from that of a deed?

P. Not at all till at the end. Originally a mortgage was made by simply handing over a deed, with an agreement that the land could be redeemed on paying the borrowed money, and even now the mortgage conveys the property just like a deed, and then provides that the mortgagor can have the property back if he pays the debt provided for in a certain bond (or perhaps only promissory note) which accompanies the mortgage.

T. What's the difference between a bond 115 (a). *Bonds.* and a promissory note?

P. A bond is under seal (103) and may hold its maker to the performance of some other act than the payment of money, tho it always provides for the payment of some value in case of non-performance. A promissory note, on the other hand, is not under seal, and never promises anything but the payment of money at a specified time.

T. What is the right to redeem the property called?

P. The equity of redemption.

T. Before accepting a mortgage, is it worth while to be sure of a good title, just as before taking a deed?

P. Certainly: if there are any previous mortgages or

judgments, they have to be satisfied before the new mortgage takes effect.

T. What is a lease ?

116. Leases.

P. A right to use real estate for a given or ascertainable time, generally conditioned on the payment of rent.

T. Should the same precautions of form and search accompany a lease, as a deed or mortgage ?

P. Except as the interest is smaller.

T. Well, a deed or mortgage or lease being made out in proper form, signed, sealed and delivered, does that close the transaction?

P. It does as between the parties, but not as between them and outsiders. As regards those without other notice, a piece of land belongs to the person in whose name it is registered, and if A, after giving a deed of it to B, were to sell or mortgage it to C, and C, without knowledge of the existence of B's deed, were to get his instrument recorded before B, it would be good against B's earlier instrument not recorded.

T. Please give me an illustration of how fine the time of record is drawn.

P. On any recorded instrument, the county register always endorses the minute of the hour of the day he receives it, and it is considered as recorded that minute.

T. But how if C gets on record first: would giving him the property be fair to B who had paid his money first ?

P. When B, by neglecting to record his instrument, had left room for C to suppose that A was still the owner, it would be B's fault that C had parted with his money to A, and so if either B or C is to suffer, plainly it should be B.

T. Is there a general maxim of the law (94) governing such cases ?

P. Yes: "The law helps those who are wide awake, not those who are dozing" *—in this case, it helps the

* *Vigilantibus, non dormientibus, subveniunt jures.*

man who gets on record first, not the one who goes to sleep over his deed.

T. Could creditors seize the property of A if they had given him credit supposing the land was his, while B held an unrecorded deed of it?

P. Not if all parties had acted honestly and could prove it. But an unrecorded deed or mortgage always is subject to suspicion of fraudulent intent to make the grantor or mortgagor still appear to own the land, and so keep a better aspect on his credit than it really deserves; and this suspicion of fraud might be very readily accepted in court if later creditors tried to get hold of the land on the ground of fraud in the unrecorded deed or mortgage.

T. Can even such a formal instrument as a deed be set aside on the ground of fraud?

119. Land differs from negotiable papers.

P. Any instrument or contract whatever can be set aside on account of fraud, except in a few rare cases where a title to negotiable paper (a bill of exchange, bank check, or promissory note) has passed on to an innocent holder.

T. Why is exception made in some such cases?

P. It has been found better to run the risk of an occasional fraud than to choke the avenues of commerce by impeding the rapid transfer of such instruments. Transfers of land and merchandise do not occur with such frequency and rapidity.

T. You have said that real estate is land and its immovable improvements. Can you recall the peculiar legal use of the word "estate"?

120. Technical meaning of "Estate" in Land.

P. The lawyers use the term "estate in land" to signify the quantity and quality of an interest. For instance, a mortgagor and mortgagee and a lessee may each have an estate in the same piece of land, so may a widow have a dower estate, or a widower a courtesy estate, and perhaps a creditor a judgment estate, all in the same piece of land.

T. What is the largest possible estate called?

P. A fee simple—when the land belongs to a man and his heirs or assigns forever. The person holding that can carve out all the lesser estates from it if he sees fit. Sometimes he carves out so many that the fee simple is worth less than nothing—for instance, he may give a mortgage for more than his estate is worth, or even let taxes accumulate against it until they amount to more than the fee is worth.

121. Rights under
estates for Years. *T.* What is the estate of a lessee technically called in the law?

P. An estate for a year, or from year to year, or for years.

T. Does an estate for a single year or from year to year, carry the same rights as an estate for years?

P. Hardly, but usage varies a good deal in the different states. Generally the rights, so far as not specified, would be inferred from the length of the term. A long term would imply material changes; while in a short term, the tenant could not make material changes, and would not be apt to, tho he would generally have a right to proper use of wood, and to gather a crop that he had planted, even if it were not ripe when his estate terminated, tho if his estate were for a single year, he would not be apt to plant one that would mature too late.

T. Has a lessee a right to use the estate as his own?

P. Yes: unless he is restricted in the lease, he may use woods and mines, gather crops, remove and alter buildings, and construct new ones, tho of course if his lease is very short, he would not naturally do all these things.

T. Can he destroy a wood entirely?

P. No, but may use only what fuel or timber can reasonably be spared from it.

T. Can he destroy anything else?

P. Not in such a way as materially to lessen the value of the property.

T. What if he did?

P. He would "commit waste," as the lawyers call it, which would subject him to paying damages and might forfeit his lease.

T. If he puts up a new building, can he claim its value when his interest terminates ?

P. No, unless by agreement with the owner of the fee—the landlord.

122 (*a*), *Repairs.* *T.* Must the landlord make repairs ?

P. Not unless so stipulated. Otherwise the tenant must make enough to return the property in as good condition as he received it, “ordinary wear and tear excepted.”

T. Must the tenant repair after a fire?

P. Not unless he wants to, but he must continue to pay rent, unless otherwise agreed. There is generally a special agreement, however, that the landlord shall repair unless reconstruction is necessary, in which case the lease will come to an end.

123 (*b*), *Subletting.* *T.* Can the lessee transfer his interest to another tenant ?

P. Yes, unless the contrary is stipulated, tho he still remains liable to the landlord himself.

T. What becomes of the subtenant if the tenant does not pass on the money to the landlord ?

P. The landlord can eject him, but if he wishes, he can guard against that by paying the landlord direct.

124 (*c*), *Terminability, notice.* *T.* If a tenant for a year continues on into a second year without anything being said, can he continue for the whole of it ?

P. Yes, he can, and must if the landlord wishes.

T. How early must notice be given to prevent that ?

P. Under the old rule, six months before the end of the year; now, generally three, tho people are not very particular as to the exact day or week.

T. Does an estate for a month follow the same general rules as an estate for a year ?

P. Yes.

T. Is there any other estate less than the fee, with the rights of an estate for years ?

125. *Rights under life estate.* *P.* Yes, an estate for life—either for the tenant’s life or for the life of another person.

T. Suppose in the latter case, the tenant died before

the other person, would the other person enter into possession ?

P. No; the tenant's heirs, or anybody appointed in his will, would enjoy the estate during the life on which it was conditioned.

T. Are there other estates than those you have mentioned ?

P. Yes, estates terminable at the pleasure of either party—called estates at will, which carry hardly any privileges but occupancy; and some other infrequent estates that it takes something of a lawyer to understand.

T. Besides the various recognized estates in land, are there any other interests?

P. There are certain privileges sometimes attaching to land, either by grant or prescription (110), and going with it when it is transferred, even without being named specifically, but only under the general title of appurtenances. They are generally in the nature of rights over neighboring land, such as rights to pass or carry pipes or wires over it, or to take wood or game or fish from it, rights of way, of drawing water, and of "antient light"—light not to be obstructed by building; and among appurtenances are also generally included rights to use party walls, and rights over adjoining highways and waters.

T. Do these rights always have to be specified in granting estates ?

P. No: they generally "go with the land," as the air and sunlight do, tho for safety's sake, grants should generally name the land *and its appurtenances*.

T. How do appurtenances generally accrue ?

P. Very often by prescription, especially rights to "antient light," rights of way, and of drawing water.

T. Let us consider some of them. How about party walls ?

P. They are very frequent in cities where a few inches in the width of a room may be valuable. A person building puts half his wall on the land of an adjoining neighbor, under agreement that the neighbor may insert

126. Under estates at will.

127. Appurtenances.

128 (a). Party walls.

his beams on and use his side of the wall. Usually a price is agreed upon for this, which should be looked up in searching title, as the conditions, if registered, follow the land, whether expressed in the last deed or not.

T. Must the adjoining owner always pay ?

P. No: he may be so uncertain whether he will want a wall of just the character proposed, that while he is willing to have the wall partly on his land, on the chances, he will take no farther risk. Yet, for the sake of gaining space, the builder may be very glad to put it there without any compensation for its use.

T. Can either side tear it down or add to it without the consent of the other ?

P. Neither can tear it down, but either can add in any way that does not damage the other.

T. When land abuts on roads, what are generally the owner's rights ?
 129 (b). *Land beside roads.*

P. In built-up districts the road sometimes belongs to the municipality, but in rural regions generally the owner on each side owns to the middle, and is entitled to anything growing on his side. The public have right of passage over the road, but only so long as they keep it in passable condition. If it is not properly kept up as a road, the use of it reverts to the owners.

T. What are the rights regarding streams, of persons who own the banks ?

P. Each riparian owner owns to the middle of the stream, and unless it is navigable, the riparian owner has the sole right to fish in it opposite his bank.
 130 (c). *Land by water.*

T. Does an owner on a bay miles wide, or on the borders of the sea, own to the middle of it ?

P. The laws of different states vary very much. In Maine and Massachusetts, for instance, a riparian owner on tide-water holds to average low-water mark. But in New York, on the other hand, he owns only to the ordinary high-water mark; the state owns from there for three miles out—as far as a cannon would carry at the time the right was determined; and beyond that, the sea is everybody's.

T. How about rights to bathe from the shore of any water, and to land on it?

P. Nobody has a right on another's land, so of course the question cannot arise at all where the law is as in Maine and Massachusetts; and where the law is as in New York, the question can arise only regarding the space between high and low water, which belongs to the state. The state often grants control to the riparian owner. Otherwise the rights so far as fixed at all, largely rest on local custom, and are not yet generally clearly determined by courts or legislation. Ordinarily whoever pleases will go on the strip after shell-fish, tho he cannot cross another's land to do it, but must go by boat from some place where he has a right to keep a boat.

T. How about wharves for shipping?

P. In some states, municipalities generally own wharf privileges, and sell or lease some to private parties for permanent use, while they retain some for the general benefit, usually on the payment of fees. In other states, as the riparian owners control to low-water mark, landing and wharf privileges generally spring from private titles. On the great lakes, the "navigable stream" rules prevail, not the tide-water rules.

T. How about the ordinary landings of people boating for pleasure?

P. A mere touching to land a passenger or a package, is not generally taken account of; and along shores and banks generally, if the privacy of owners is not unreasonably disturbed, they are not apt to object to others' landing. If they do object, and if the stranger goes farther than high-water mark, the rights are the same as if the trespasser had come by land.

T. Suppose an estate is granted subject to conditions or restrictions of any kind—such as not building on certain portions, or not carrying on offensive trades, or using only for dwellings, or a limited number of dwellings—can the estate be transferred without those restrictions?

P. No, the restrictions follow it during the whole es-

tate originally granted, even if the estate be a fee simple, and the records should be searched for such restrictions just as for mortgages, judgments or any other encumbrances.

T. Can't these restrictions ever lapse ?

P. Certainly; under the Statute of Limitations (1110) even the ownership itself can, if somebody successfully acts counter to it for twenty years. So, if somebody acts counter to a restriction, for twenty years, without anybody attempting to enforce the restriction, nobody can enforce it thereafter.

T. Are there no exceptions ?

P. Yes; but we haven't time to go into them: of all products of the human mind, the Law is the most immense and the most complicated—so complicated that there is probably no rule without exceptions. That is one reason why a person should be very slow to act in a serious matter without the advice of a good lawyer.

T. Now that we have some notion of the complexities of interests in land, does it seem inevitable that transfers of them must involve so much delay, trouble, expense and risk of bad title ?

P. No: just as the cumbrous forms which deeds had reached have been remedied, so remedies have been found for the other cumbrous usages.

T. Why haven't they been universally adopted, then?

P. Because usages which have been evolved through such a long past, have their roots tangled up in so many things that it's hard to eradicate them without wide disturbance. Some proposed land reforms can't be adopted in some places without amending constitutions.

T. No other difficulty?

P. Yes: social affairs are so complicated that before any comprehensive measure is tried, it is hard to tell how it is going to work. There's no more certain mark of error than a glib cocksure plan to remedy a social difficulty. Wise people are very slow to substitute innovations for evolutions.

T. Yet we must not stick in the mud for lack of try-

ing to get out. Now what, on the whole, appears the best method of land transfer yet suggested?

P. What is known, from its originator, 132. The Torrens System, as the Torrens System, that was first used in Australia in 1856, then spread into the neighboring British possessions, into British America, and into Great Britain itself, and has lately been enacted in Illinois, Ohio and Massachusetts.*

T. What are its principal objects?

P. To save the delay and expense of frequent search of titles, and the losses from uncertain or imperfect titles. This is effected by granting certificates of title under the guarantee of the state.

T. But where a title is open to question, how can the state guarantee it?

P. Different governments arrange different details, but the proceedings are something like this: any person claiming an estate in a piece of land (at least the absolute ownership,—a fee simple: the minor estates are not always directly provided for, but are indirectly), can go to the proper authorities (they vary in different states), asking for a certificate of his title. The officers search the records and make out a description of the title as it then appears, stating in whom the fee stands, and in whom stand any claims, such as dower, mortgages, judgments, life-estates, estates for years, etc. Then they issue notice by advertisement to all persons claiming any rights in the estate, and by mail to all whose address is known, to present statements of their rights within a given time. At the end of that time, they judge all these rights, and complete their statement of the title according to the rights which they consider established. If anybody contests any of their judgments, the case is given to a court, from whose decision lies a right of appeal to a higher court, whose decree is final; and then a certificate of title embracing all the rights is re-

* The first enactments in Illinois and Ohio did not fit the constitutions of those states. In Illinois a second enactment has been made which promises success.

corded. The certificate may state that an unencumbered fee simple rests in one individual; or the certificate may vary so far as to indicate a fee vesting in several persons and a number of rights vesting in several other persons. But such as it is, the certificate states the authoritative title of the property, which can never again be questioned. Duplicates of the certificate are given to persons having rights in the property.

T. What are the chief advantages of these certificates?

P. Under previous usage, if anybody wants to sell any rights he may have in a piece of real estate, or pledge them for a loan, the title has to be searched, at an expense of money which may be greater than a loan will justify, and at an expense of time which may lead to his bankruptcy before the value of his rights can be ascertained. But with the modern certificate, he can show his rights at a glance, and an expert can appraise their value very quickly. Moreover they are guaranteed by the state, and therefore not open to any question, as rights in real estate under the usual registry system always are.

T. But suppose the officers have made some mistake which does a frightful injustice?

P. The Massachusetts plan is that the title, as certified, cannot be questioned (except, of course, for fraud), but if anybody can prove himself wronged without any fault or carelessness of his own, he is made good through an insurance fund which is accumulated from a trifling percentage (one-tenth of one per cent.) of the value of each piece of property certified, which is paid when the certificate is granted, and also whenever the property passes by descent or will.

T. Do the expenses of searching title and preparing the certificates come out of the general taxes, so that people who own no land have to pay for the benefit of those who do?

P. No: charges are made for preparing the certificate, but they are generally no more than that of an ordinary search of title, and they are paid once for all; while under the old system, as much generally has to be

paid every time a piece of property is sold or mortgaged—sometimes a dozen times a year.

T. How is the holder of any certificate whose interest is less than the fee, prevented from raising money fraudulently by representing himself the holder of the fee?

P. In Massachusetts, a mortgagee's duplicate is so stamped, and when the mortgage is paid, it is given up and stamped "canceled." A similar arrangement can be made, of course, when certificates are issued to holders of other interests, tho there are not always provisions for such issue.

T. But a title good to-day may not be good to-morrow. What is done regarding sales and encumbrances coming after the certificate is issued?

P. They are effected by just the same documents as before, only the first principle, of course, is that no change in the rights to the land takes effect before it is recorded in the certificate and its duplicates. Where ownership of the fee is changed, a new certificate is issued, and the old one stamped "canceled." To use an imperfect certificate with intent to defraud, is made subject to heavy penalties, and anybody purposing to accept a certificate can compare it with the original at the recorder's office in a few minutes, for a trifling fee, instead of waiting a month to get the title searched, and incurring heavy expenses.

T. How about titles by prescription (110) under the Torrens system?

P. They cannot be obtained (in Massachusetts, at least) against a title that has been certified under this system, which seems, on the whole, a just provision, tho it may well be questioned.

T. In states adopting the new system, it must be a gigantic job to get all the property registered under it. How has that been done?

P. It is made voluntary, and persons interested generally apply for certificates only when they sell or mortgage, or grant estates for years. Thus the labor is spread over time enough to make it quite practicable.

T. Won't the certificate of an active piece of property soon grow unwieldy?

P. It is not apt to, as a new one is issued upon each change in ownership of the fee. But if mortgages, leases, etc., should make it unwieldy, there seems nothing to prevent the owner applying for a new one with all dead changes left out, and simply showing in whom the rights vest at date.

CHAPTER VIII.

RIGHTS IN PERSONAL PROPERTY.

Their Evolution.

Teacher. Now having traced the evolution, protection and transfer of rights to Property in Land, we come to treat in detail of the similar features of the Personal Property developed out of the land. In our first summary (54, 55) what did we find to be the agencies that develop it?

Pupil. Land, Labor and Ability.

T. What do you mean by labor?

P. Of course it generally means effort of any unattractive kind, but here I mean the work of a man's body.

T. When you were speaking of the monkey picking the fruit, you called the third factor "intelligence." Why did you change the name to Ability?

P. "Intelligence" is not broad enough to cover the ground: judgment, knowledge, forethought, patience, honesty and a host of other qualities are needed now, and we sum them up under the name of Ability.

T. Are the differences in men so marked as to divide them into two classes—men without much Ability who perform the manual labor, and men with great Ability who tell the others what labor to perform?

P. Under such a classification, as under others in all sciences, the divisions would overlap some, but they will do very well for our purpose, if we bear in mind two of the particulars in which our classification falls short.

T. What is the first ?

133. Product varies
with Ability, *P.* That many laboring men, tho guided more or less by the Ability of other men, have Ability of their own. Tho a common laborer has usually but little Ability, and shows it by getting only a dollar a day, an average mechanic has much more Ability, and shows it by getting two or three dollars a day; while a small number of mechanics of considerable Ability, get as high as even ten or twenty dollars a day. Yet in successful businesses they are nearly always under the guidance of men of vastly greater Ability, who get many times as much.

T. What is the second qualification to bear in mind if we treat the industrial world as divided into men of Labor and men of Ability ?

P. That, in England at least, the laborers are fast learning to be their own guides. Coöperative industries carried on by the workers themselves, made wonderful progress during the latter part of the nineteenth century.

T. Outside of mere manual labor, do the rewards of Ability vary as much as in manual labor ?

P. Much more. When you get up into the Ability that can guide the labor of others, men vary much more than they do when the Ability is only enough to guide one's own labor; and in the long run, the rewards vary somewhat with relation to the Ability, tho the men of the very greatest inventive Ability, like the creators of the steam-engine, the telegraph, the loom, the cotton gin, the reaping-machine, and other great inventions, who influence the labor of nations and generations, never reap a tithe of their own production; while on the other hand men of administrative ability, like Stewart and Vanderbilt, whose work is mainly in handling other men, and lives but little longer than they do, reap a much larger proportion of their production.

T. But how is a man's Ability determined ?

P. By the value of what he produces; and in the long run, despite the poor pay of some of the inventors, most men are paid accordingly.

T. Can you give me a striking proof of how wages vary with Ability?

P. Yes; Brassey,* the great railroad contractor, found wages the world over regulated by the amount of Ability; he got the same labor for the same amount of money in one part of the world as in another. If he paid ten cents a day in India, it took ten men to accomplish the results that it took one to accomplish in countries where he paid a dollar a day.

T. But did not the difference lie in muscular strength? Was not the work purely muscular work?

P. Muscular strength did not have much to do with it. Even in mere picking or shoveling, a man of Ability will accomplish more than a man of much less Ability and more strength. It is more a matter of Ability than of strength—of intelligence in work, including energy and faithfulness, which are considerable elements of Ability.

T. We shall find, as we go on, that false reasoning, especially regarding convict labor and protective tariffs, is often based on a false assumption that a day's work is the same thing from one wage-earner as from another, in one country as in another, and at one price as at another: so you may as well give me more illustrations of the utter falsity of any such ideas.

P. To come to details then: in Canada, Brassey found English labor at 5s. 6d. cheaper than Irish at 3s. 6d.; in England, 3s. 6d. cheaper than 1s. 6d. in Ireland, or than 5d. in India. In a stone-quarry in France, he paid Englishmen 6 francs a day, Irishmen 4, and Frenchmen 3, and found the Englishmen the cheapest of the lot. General Walker† says that the English cotton-spinner is

* Brassey, Thomas: *Work and Wages*.

† Political Economy, Advanced Course. General Walker farther quotes various authorities to the following effect: an English wood-sawyer will do the work of thirty-two East-Indian ones. He gets but about eight times the pay. An English laborer does and receives about twice as much as an Irish one. Tho provisions are cheaper in Russia than in England, it costs six to eight times as much to mow an acre of hay in Russia as in England. It takes

paid twelve times as much as the East-Indian, and yet undersells him in his own market; that an English weaver tends two or three times as many looms as a Russian, and that the English looms run faster. Brassey says that three English railway navvies do the work of five French ones. It is universally known that American laborers surpass those of the rest of the world in efficiency—strength, intelligence, and saving, as much as they do in pay. In France it takes forty-two men to do the work at an iron-furnace that in England is done by twenty-five. English farmers on the shores of the Hellespont prefer to give Greeks £10 a year rather than give Turks 3. Women in English cotton-factories get about 13s. a week, while French, German and Belgian women get about 8, and Russians about 2½; and the English labor is the cheapest. In different parts of England itself, agricultural wages varied from 9s. per week to 16s., and the 16s. laborers were the cheapest.

T. Is there much perplexity between the rights of Labor and Ability?

135. Difficulty of
adjusting Rights
between Ability
and Labor.

P. Yes, there is a constant conflict between them. Many even claim that the men who do the hand-work make everything and ought to have everything.

T. Let us, then, try to ascertain how the respective property rights of Labor and Ability are evolved. It's plain enough how Labor increases production, but outside of the Ability of the individual laborer, where does Ability first begin to increase it?

136. General Functions of Ability.

P. Wherever one man tells another what to do. A common laborer cannot dig a ditch straight without a person of superior Ability to show him how; or he can't go into a wood and chop down the trees that ought to be taken, without somebody

twice as many hands to do most kinds of factory work in France and Germany as in England. In Belgium a hand prints from one hundred and sixteen to three hundred pieces of cloth a day, in England the average is one thousand.

General Walker's "The Wage Question," Chapter III, should be read on this and collateral topics.

of superior Ability to mark them for him—he can't even remember them unless they are marked, but will chop down the wrong ones.*

T. And in the higher walks of industry, tell me in general terms what the man of Ability does for other men.

137 (a). "*Finds work.*"

P. He finds the work for other men to do: they go to him for work, and unless he "gives work," they remain among "the unemployed."

138 (b). "*Increases product.*"

T. How does he increase product?

P. By organizing men of comparatively little Ability so that they can produce what is wanted, and produce more of it, carry more, and exchange more than they could if left to themselves. He decides what enterprises will pay, undertakes them, gets together the capital for them, and often invents machinery and industrial processes.

139 (c). "*Saves waste.*"

T. Does he effect any economies?

P. Yes: if he is a man of sufficient Ability, he abandons enterprises before they run at a loss. Moreover, as Labor, unless guided by Ability, is simply the mere physical effort of the animal or the savage, it is apt to be wasteful, and often destroys more than it produces. In most cases, unless the superintendent of the laborers has enough Ability to set them making the proper things the proper way, they produce less than nothing, by spoiling material and producing articles that will not sell for what they cost. The "bargain-stores" contain many things not worth as much as the materials and wear of tools (not to count the labor) that it took to make them. On the other hand, Labor guided by Ability makes nearly everything it touches worth more than it was before.

T. Does the man of Ability generally do anything more than conduct the processes?

P. Yes, he generally organizes the enterprise from the beginning.

* The author once took an excellent woodchopper into some pleasure-grounds and pointed out a dead tree to be cut down. Near it stood a beautiful live one. The chopper cut the live one and left the dead one standing.

T. Let us call him the *enterpriser* then. What else has he been called ?

P. Because he undertakes the enterprise, he has sometimes been called the undertaker, and some people who don't like that word have taken a French equivalent, *entrepreneur*.

T. English is good enough for us. Now tell me more in detail what he has to do at the start.

P. As already said: the enterpriser has first to decide what enterprise will pay; and that is the most difficult task of all. A market may reach to the remotest corner of the world, or may be restricted to a fastidious class in a few great cities, or may depend on unaccountable shifts of fashion, or on a million mysterious causes, yet the enterpriser must know what the market wants and how much. No other man, perhaps, so needs the genius of the prophet. It is no wonder that only one man in thousands has it to any marked degree.

T. Well, suppose the prophet has determined what to do: how is he to set about doing it ?

P. Unless he has enough money of his own (which is seldom the case, in the industries so big as to supply us most cheaply) he must get other people to put in their money. The capacity to find them and to make them trust him, is one great and rare element of Ability.

T. When he has the capital, what next ?

P. If he wants a factory, he has to decide on the building and machinery that will pay, and see them well and economically constructed; to buy the material in the best market and at the most favorable time, sometimes getting credit if he thinks it wise to buy more than he has money to pay for at the time; to get together the men, using great judgment of human nature in getting honest and capable foremen and accountants; to see that the men are properly organized, as already explained (and he has, by the way, to keep this in mind in getting up his factory and machinery); then he has to man-

age the men and their strikes and labor-union troubles.

T. What must he watch outside of his works?

P. He must determine from day to day just what styles of his product are apt to strike the coming tastes and fashions, and when and of what kinds to make big lots and small ones; to make his product known by wise and economical advertising; to find the best market for it, both in time and place; to know whom to trust and whom to press for money, and how to keep his trade; and then he has to collect the money. All this time he has to see to his accounts and taxes, and if he can, occasionally get a little time to eat and sleep and recreate himself.

144 (d). Outside of the works. *T.* Now you've stated your view of what the enterpriser has to do, will you give me the view generally entertained by other people?

P. That, as he seldom soils his hands, or uses any tool but a pen, he has nothing to do, but is a mere drone living on money that really belongs to the people who do the hand-work. Because the captain of industry does not actually use a tool any more than a military leader actually uses a weapon, most of the people who cheered Dewey on his return from Manila are ready to say that a captain of industry is entitled to none of the results, because the work is all done by his men. The truth is that they would have been as powerless without him as a fleet without its Dewey, or an army without its Grant.

T. What is the most noticeable process by which the enterpriser increases and cheapens production?

146. Division of labor. *P.* He effects the *division of labor*. In making almost anything, there are a good many processes. If one man performs them all, he will not be as skillful in any one of them—as able to do that one nearly as often in an hour, or as well, as if he practices that one alone. Besides, if he effects a dozen, he will lose time in changing from one to another. Hence it is a great aid to production, to have a factory big enough to have separate men for separate processes.

T. If there are a dozen processes, would that mean a dozen men?

P. Probably not. Some processes would take more time than others, so the man doing the quick ones would need more men doing the others, to keep up with him, or possibly in a small factory it would be cheaper to have some man do more than one process: that would of course depend upon the size of the factory.

T. Would it not depend on something else too?

P. Yes, on the Ability of the manager: unless he decided wisely how to portion out the work, he would have too many men for one process, and too few for another, and so throw everybody's work out of gear.

T. But couldn't the men decide this themselves better?

P. No: each man would want to do what he liked best, and he could not know as much about the other men's work, and what the material and the total result aimed at would require, as a man whose business it should be, while doing nothing special himself, to watch it all, and make all work together. Even where workmen have owned an establishment together, they have had to make a leader and obey him, and generally pay him more than any of the workmen got (160). When it comes to watching it all, there are few men that have the Ability, even if they could have the opportunity: most men who try management make a botch of it (162).

T. As a matter of fact, how many men who try to perform the duties of the enterpriser succeed?

147. Few men can conduct large enterprises.

P. The vast majority fail.*

* Mr. Joseph H. Walker of Worcester, Mass., lately found on investigation that of every hundred men in business in that place in 1845, sixty-seven were out in 1860. Out of seventy-five manufacturers in 1850, only thirty left business with any property, and only six of the sons of the seventy-five had any property. In 1860 there were one hundred and seven manufacturers, and only sixty left business with property. There had not been time for many deaths: so failures are the only explanation. (Wells, "Recent Economic Changes.")

T. What seems the general reason that very few men are fit to conduct a large business, while so many men conduct small ones?

P. Because for a large business, the preparations have to be made for months—sometimes years, ahead. The little businesses that buy from the large ones can buy from one day to the next, and need only take from day to day, or even from hour to hour, what they see that people want.

T. Is there any remaining reason why only one man in a thousand can conduct a large business?

P. Yes: as a large business cannot have the enterpriser's eye everywhere at once, he must leave much of the supervision to lieutenants who themselves have Ability, and the capacity to search out and select good lieutenants is rare, especially in combination with the other great powers that an enterpriser needs.

T. Does what you have said in regard to organizing factories—producing tangible goods, apply equally to organizing stores and railroads and steamships and hotels and all other forms of industry?

P. Of course. It used to be a jocose way of describing a man of little Ability, to say: "He can't keep a hotel." Unless there were men who could organize something bigger than a stage-coach, we should have to go in stage-coaches; unless there were men who could organize something bigger than a sloop, we should have to go in sloops; unless there were men who could organize the big shops, we should have to run all over the cities to get what we want from a variety of little ones, and then would not have as wide an assortment to choose from, or be able to get what we could find, at as low a price.

T. You have explained how the division of labor cheapens production in factories, but in stores and railroads, etc., where there cannot be much division of labor, how does the cheapening come in?

P. Why, in most industries, the more you do of a thing, the cheaper you can do it. A bookkeeper can make a

148. Ability outside of tangible production.

149. "The Great Industry" cheapens product.

figure 9 as cheaply as he can make a figure 1; a wheelbarrow can carry a bushel of potatoes as cheaply as it can carry one; a locomotive can take a dozen cars in a train about as cheaply as one; a man of Ability can turn out or handle a thousand pieces of goods easier than a man of no Ability can turn out or handle one.

T. What is said about the economies effected by Stewart, the first great shopkeeper in New York?

P. Stewart, as compared with all previous shopkeepers, is said to have saved the people who shopped with him ten per cent.

T. What is said of Commodore Vanderbilt's economies?

P. By cheapening freights from the grain-raising and flour-milling regions of the West, Vanderbilt is estimated to have saved every man on the seaboard a dollar on each barrel of flour that he bought.

T. Are the fortunes of such men made out of other people?

P. No: the fortunes of men of Ability are usually only a small portion of what they create and save for other people. If the inventor of the steam-engine were alive and could have half that he has saved for and bestowed on other people, probably no one country in the world would be rich enough to pay what all countries together owe him.

T. Let's look into this matter of inventions a little more closely: we will have to refer to it more than once. Now think it over: what do you really mean by "the inventor of the steam-engine"?

P. I would have done better to say "inventors": in fact no one man ever invented any great thing.

T. If nobody is really an inventor then, why do we use the word?

P. It is generally used in any particular country, for the last man in that country who took the last important step in the evolution of any great invention.

T. Why do you say "in any particular country"?

P. Because when you try to find out who invented the

150. Enterpriser's income not at expense of Labor.

151. Invention and Evolution.

steam-engine or the telegraph, for instance, from a book—especially a schoolbook designed to teach patriotism, if it's an English book, you'll be apt to find the credit given to an Englishman; if a French book, to a Frenchman; if a German book, to a German; and so on.

T. Do you mean that none of the books are true?

P. No: they're generally all true, roughly speaking.

T. What is the explanation?

P. Simply that in each process, so many elements enter that it has taken a long time to evolve them. During this long time the whole civilized world has learned about them, and people in all countries are apt to take the final step at about the same time—or rather a variety of steps which accomplish the result.

T. Well, whether we call each important apparatus giving us the control over the powers of Nature, an evolution or an invention, it is the product of Ability. Now which produces most of the wealth of the world, Nature, Labor or Ability?

P. Generally Nature holds out more wealth to the poorest savages than to the richest people on earth, because the wealth of the savage's country is yet untouched. But the savage has not the Ability to develop it. Labor is more abundant amid the famines of China and India than amid the wealth of Europe and America, but the Chinese and Indians have not the Ability to guide it. So, as places with the most natural wealth and the most labor are the poorest, and those with the most Ability, even tho their natural wealth be partly used up, are the richest, the difference between the rich peoples and the poor ones must depend upon Ability.

T. From the point of view of civilization then, what do men who make inventions and organize industry do for us?

P. They secure us all that we have in advance of the people whose industries are small. If there were no great inventors and organizers of industry, the civilized world would have to go backward to the condition of people like the Chinese and East-Indians, who have little invention

152. Labor abounds
in poorest countries.

or organized industry, and the world would have to stay there until men of Ability should arise.

T. Now we come to a tough question. 153. The enterpriser must pay good wages. When the product is sold, is it at all certain that the enterprisers will have given the employees their correct share? In other words, are wages always fair?

P. Generally the share is given before the collection is made—a lump sum is agreed upon. There is no way of making each man's sum exactly equal to his share in production; but in the long run wages must reach an average that is fair, and probably more than fair: the able laborer gets more than the unable one everywhere (134).

T. What are the reasons?

P. Not only because men of Ability so increase the product that they can afford to pay more than the laborers would produce alone, but because all men so prefer to be employers rather than employed, that they will pay all they can afford, and more, rather than be driven out of doing business for themselves. Therefore, except in times of unusual depression, there are employers actually bidding more for labor than they can really get back from it.

T. But how can they do that?

P. Men of little Ability are constantly saving or inheriting or borrowing capital which they fritter away in trying to conduct enterprises that are beyond them.

T. But how can men of Ability get labor if men of little ability pay more than it is worth?

P. The men of little Ability pay more than *they* can make it worth. Men of great Ability can make it worth more.

T. But how about times of depression, when there are not as many jobs as there are men? Don't men who need places then, take work for really less than they produce?

154 (a). Often in bad times. *P.* Undoubtedly they do; but probably not oftener than employers who, rather than shut down, pay more than the market will return.

T. So much for the services that an enterpriser, when he has Ability enough to succeed, renders to the community and to his workmen. Now if he pays his men all they produce, or more, how can he possibly get his reward?

155. Where Ability's
reward does come
from.

P. Out of product that would not exist unless his Ability called it into being.

T. But how is that? He does not make or even handle a thing with his own hands.

P. True: but he enables other men to make or handle two, or perhaps a hundred and two, where they could otherwise handle only one.

T. Why, you seemed to talk lately as if he got it by making things cheaper.

P. So he does, but he makes them cheaper only by making more of them with a given amount of labor and material. Moreover, where there's a big supply, things are always cheaper than where there's a scant supply.

T. But Vanderbilt and Stewart didn't make things?

P. Yes, they did. They made things-in-New-York that otherwise would have been things-in-Minnesota, or things-in-Belfast. There's a difference in value between a thing-in-New-York and a thing-in-Minnesota. If there are more barrels of flour in Minnesota than people want, and not as many in New York as people want, people in New York will give more for them than people in Minnesota. The man who carries them, adds to their value, and if he carries them cheaply, people in New York can afford to pay him a profit for carrying them. So with linen between Belfast and New York, and in short with all articles moved by commerce.

156. Why returns of
labor are nearly
fixed.

T. How comes it that the laborer never gets anything above the current rate of wages, while the enterpriser may get hundreds or thousands of dollars a day?

P. Things that can be found anywhere, like staple products or labor, are always offered for sale in lively competition, and so the price is driven down to pretty near the cost of production. Mere brute labor of the pick and shovel is found anywhere, and can be kept alive on

cheap food and lodging: therefore its cost is low. The more intelligent labor of the high-class mechanic, needs a nervous system kept well by good food, sleep and shelter, informed by some education, and recreated by some amusement. These things cost more money than the coarse laborer's living, and are not as generally to be found: so the mechanic gets higher wages than the mere digger; and the high-class mechanic gets higher wages than the low-class one. Nevertheless, there are enough mechanics of nearly all grades to make competition among them active (despite the regulation of their trade-unions), and so, of course, their labor is kept at a recognized, tho somewhat fluctuating, market price.

T. That all shows why labor is restricted to its regular wages, but how is it with the irregular and often enormous profits of Ability?

P. Ah! there we get into entirely different conditions. Ability is scarce: it generally does not compete for employment, but employs itself; hence there is no price fixed for it. Whenever it does accept wages—as in the case of special mechanics, electricians, chemists, etc., or upper clerks, managers, presidents of companies, etc., the salary is a matter of special arrangement, and generally is accompanied by an interest in profits besides, not to speak of the St. Valentine's Day check of \$100,000, from the New York Metropolitan Street Railway to Mr. Vreeland, its president.

T. But what determines this varying and sometimes enormous factor of profits?

P. Wages have a current market price, so has raw material: a given amount for those two being paid by different men of Ability, they will get out different amounts of product, varying in proportion to the Ability of the enterprisers; and these will produce and market this product at different rates of expense for plant, office expenses, interest on capital, freight, advertising, drumming, collecting, bad debts, etc., etc. They will all have to sell at pretty nearly the same price: that being fixed by those having least talent for making good sales and holding out

157. Why those of Ability vary widely.

for high prices. The others will have to come down very near to that price to get a market; or sometimes, tho seldom, an Able man may even go below the current price for the sake of broadening his market. But however the price may be fixed, the profits of each enterpriser will be the difference between it and the cost to him of production and marketing. That difference may be on the wrong side for those who produce least with a given amount of wages and raw material, and are most extravagant in office expenses, advertising, freight, etc. Those who exercise most Ability in these particulars, will of course have the most profit. That profit may be enormously increased if the Ability is of the very exceptional kind that generally anticipates the course of the market, and buys material and holds on to product before a rise, and sells before a fall.

158. Capital's return
more like Labor's than
Ability's.

T Where does the capitalist come in ?

P. Oh, he's about on a par with the wage-earner. Capital is everywhere, and there's a market rate for it, just as for wages, tho as it does not generally need its income from week to week, it is more apt to take chances at a share of the profits than the laborer is: the laborer nearly always (tho not always—not in fisheries, for instance) commutes his share for a fixed sum regularly paid.

T. But if the laborer and the capitalist are so nearly in the same boat, whence this unending talk of the conflict between capital and labor?

P. It's mainly a survival of words from old conditions. In the early days of the great industry, the capitalist and the enterpriser were generally the same man; but even then the struggle for shares of product was really with him as an enterpriser rather than as a capitalist. Nowadays when the enterpriser is so generally merely either an officer of a corporation in which his share may be little or nothing, or a mere borrower of all or most of his capital, capital's share of product is nearly as fixed as labor's, and the enterpriser is really the person struggling to see how much he can realize after paginy both.

T. The conflict, then, is between Ability on one side, and Capital and Labor on the other ?

P. Yes, so far as there is any conflict, and when the enterpriser is not at peace with capital by owning most of it himself.

But it's the cheapest sort of nonsense to claim that in our day men of high Ability waste their time in trying to grind the face of either capital or labor: able heads are apt to be too full of making money to bother themselves much with petty means of saving it. The pettifoggery is carried on by a lower type of man; tho the wisest men make mistakes, and all men, rich as well as poor, and poor as well as rich, see their own sides too exclusively.

T. But suppose the laborers themselves owned the factory, or the store, or the steamboat, and all in them, couldn't they then get along without the Man of Ability ?

P. In the first place, they very seldom do own the establishment; but where, by saving up and putting their money together, they have owned it, they have always failed, unless the born Man of Ability arose among them.

T. What has happened then ?

P. The born Man of Ability has generally in time got his share of the product, and until very lately (167), he has generally ended as the owner of the concern.

T. Do you mean that he has stolen it ?

P. Not at all. Without him, the thing has generally soon been shut up. Where he has taken hold, he has enabled the men to produce enough to pay their wages, and sometimes more; and what was over, was of course fairly his own production.

T. But, if, outside of a few coöperative establishments carried on, as they all are, by very exceptional workingmen, the men without a manager have not produced enough to pay their wages, when an exceptional establishment does pay, isn't the production fairly the manager's ?

P. Certainly, and Karl Marx and his school say that he gets it and more too,

159. Ability cannot waste time and strength in grinding labor or capital.

160. Capital and labor powerless without Ability.

161. The rates of division.

T. What does the modern school say ?

P. Mallock says that the workmen produce five-thirteenths of the output, and get paid for seven-thirteenths. Sound economists agree with his general position, tho he alone is responsible for his figures.

T. But do you mean me to understand that if the enterpriser gets six-thirteenths of what is produced—that if every day he were paying seven hundred men three dollars apiece, he would get eighteen hundred dollars a day to each man's three dollars ?

P. Certainly not: the six-thirteenths have to pay taxes, insurance, rent, interest on borrowed capital, and dividends to stockholders, if there are any.

T. As a matter of fact, what does the enterpriser generally get out of the six-thirteenths ?

P. Something less than nothing at all—
 162. Enterprisers generally get less than nothing. he generally uses up all the money that has been put in the business, and fails (147).

T. Who does get it, then ?

P. When money is lost in business, as it usually is, the wage-earners get their share first, and the other claimants—landlord, suppliers of machinery, fuel, raw material and merchandise, and lenders of money, get what is left, if anything.

T. But haven't you been talking nonsense ? If the money embarked in business is generally lost—if ninety-nine enterprisers in a hundred lack the Ability to succeed, how can large industries be carried on at all ?

P. The beginnings are usually made in a small way. Until an enterpriser has proved himself, people will not trust him with much capital. So before much is lost by incapable managers, they fail—competition weeds them out and returns them to the ranks, while the capable ones survive to conduct the large industries.

163. Handworkers of special Ability. *T.* But you have spoken so far only of Ability as guiding mechanics or others who handle material things. Let us stop a moment to consider other men of Ability who work with their muscles. Do they get the rewards of Ability ?

P. Artists, musicians, public performers of all kinds,

work with their muscles, and sometimes those of great Ability make thousands of dollars an hour.

T. But you said that people's pay was in proportion to what they produce. Now a singer or a surgeon doesn't produce anything.

P. Yes he does: "goods" are not all of them mere material things: art, literature, and science are among the highest goods, and people pay high for them, whether in music, books, pictures, statues and beautiful houses, or fees to doctors, lawyers and engineers.

164. Property not all tangible. *T.* Is property, even, only in tangible things?

P. By no means: some of the most valuable properties are in mere rights, such as the rights to make and sell patented inventions and (tho seldom of equal value) copyrighted books, music and pictures.

T. Please give me some other examples of mere rights that have a money value.

P. At the Columbian Fair in Chicago, the rights to keep restaurants, rent out rolling chairs, sell papers, candy, and even peanuts, were sold for large sums. So often are rights to put down railways, even before a tool has been used in the work.

T. Must a man either guide his own hands or those of other men, to exercise Ability and reap its rewards?

P. No, not to speak of inventors, the lawyers and statesmen regulate productive industry and so add to production. We might liken the world to steam machinery. The steam-power—the engine, is labor; machines—like looms and cotton-gins, are the Ability that makes the power useful; and the lawyers and statesmen are the governors and fly-wheels. So far as they see that justice is done, that taxes are wise and government good, they keep things running easily and smoothly—the power from being wasted, and the machines from going too slow, or so fast as to tear themselves to pieces.

165. Comparative profits in different fields of Ability. *T.* Are business men of Ability—who control material things, as a rule richer than the surgeons, and artists, and lawyers, and statesmen?

P. It is at least doubtful whether they are, *in proportion to their numbers*, but there are a great many more men in business, and therefore a great many more rich ones, and of the comparatively few men in the fine arts and the professions, by no means all have much Ability.

166. Why so few have great Ability.

T. Why is it that a few men have most all the Ability, and therefore most all the property, while most men have very little of either ?

P. Probably for the same reason that a few horses have all the speed and beauty: it is a question of evolution, not very well worked out yet.

T. Have the truths you have been telling about the shares of the various producers been long understood?

167. Discovery of the foregoing truths. *P.* No: the bottom ones were first clearly stated in General Walker's "Political Economy," in 1874, and since then they have been followed up and expanded, particularly by Professor Marshall and Mr. Mallock.

T. What was the earlier idea ?

P. It used to be believed that what the enterpriser got, he got by having control of the tools and materials, the store, the railroad, the steamboat, and forcing his men to let him keep a part of what they really produced or exchanged.

T. Is the Man of Ability appearing oftener than he used to ?

168. Ability increasing. *P.* Decidedly a new state of affairs is growing up in England. At last workmen are putting their money together and enterprising their own industries, and are rapidly developing so much Ability that they can manage themselves through directors elected by themselves.

T. Do you mean that they can all be bosses ?

P. No, but they are capable of directing sufficiently to prevent having to depend entirely on any one or two men; and the rank and file are developing sense enough to help their leaders instead of hindering them, as has been too often the case before.

T. But does it seem right that because one man is born very Able, and another, who may be a better man at heart, is not very Able, the first should be prosperous, and the second poor ?

P. The question whether the inequalities in men's fortunes are "right" depends upon what you mean by right.

T. Well, what do *you* mean by "right" ?

P. That depends upon what one is using the word for. If he is using it for his hands, the right hand is the one most people can use best; if we are talking about a right line, it means one that goes direct from point to point; if a clergyman speaks of a right action, he means such a one as his church would approve; a lawyer means by a right, something that the government, or the law, will or should secure to a man; and a philosopher would mean, an act for the greatest good of the greatest number, or he might mean an act in accord with Nature's laws. The fortunes of Peabody, Cooper, Vanderbilt and Stewart are certainly in accord with Nature's laws, and therefore in this sense must be "right."

T. But can they also be for the greatest good of the greatest number ?

P. Probably few would question regarding Peabody's and Cooper's; and certainly Vanderbilt's and Stewart's resulted from work which "the greatest number" could well afford to pay the fortunes for, if they had had to. But they did not have to: for, as we have seen, the fortunes would not have existed but for the savings effected for the community, part of which savings made the fortunes of the enterprisers.

T. Admitting, then, that wealth honestly acquired is right, especially when used as Peabody and Cooper used theirs, is the corresponding poverty right too ?

P. Well, if "corresponding poverty" means that the majority of mankind is poor *because* the minority is rich, there isn't any "corresponding poverty": men of ability while making their own fortunes, improve those of their employees and of the whole community, instead of diminishing them.

T. But aren't there things in accord with Nature's laws that seem *not* for the greatest good of the greatest number?

P. Perhaps they only seem so.

T. Give me an illustration.

170. Evils have their uses.

P. Poverty and disease are in accord with Nature's laws, yet at first they do not appear to be for anybody's good. Nevertheless, great numbers of people have vowed to be poor all their lives because they thought it for their own good, and for the good of their fellow men; and some of them have even gone so far as to try to make themselves sick by fasting and vigils.

T. Now do you suppose that there was not any truth whatever in their ideas?

P. Good people often do very foolish things because they get too enthusiastic over one part of the truth. This part is that poverty and sickness, being natural, must have *some* good resulting from them, but the good is in overcoming them, not in seeking them, as the ascetics used to. Some of the noblest efforts and wisest discoveries and greatest advances of the race have been made in overcoming poverty and sickness.

T. In fact, has not the history of civilization been an overcoming of disadvantages?

P. Most of the intelligence and morality of mankind have grown up through conquering the hard conditions of Nature. Early men were savages, man has become civilized only through the conquests he has made over Nature. Through overcoming Nature's difficulties he has become brave and strong; through hard study of her secrets he has become wise: and through helping others who would not have needed help if there were no poverty or sickness, he has become benevolent.

T. You think, then, that poverty and sickness have their uses?

P. Undoubtedly. Tho most modern men prefer to have their usefulness arise from different experiences, even at the cost of disagreeing with the early saints.

CHAPTER IX.

RIGHTS IN PERSONAL PROPERTY—CONTINUED.

Quack Schemes for Distributing them more Evenly.

171. Cause of poverty.

Teacher. What is the cause of poverty ?

Pupil. There is no cause of poverty. Wealth only has causes, but ignorance, stupidity, laziness and misfortune of course obstruct the causes of wealth. In early times all people were poor, even to-day every child is born with nothing, and of course he has nothing until he produces it himself, except as it is given him from the production of others. Unless he produces much, or somebody produces much for him, he never has much. Poverty lasts until the causes of wealth are effectively put in action.

T. Now that we have reached a rough notion of the conditions under which civilized man evolves his rights in personal property, what have we seen those conditions to be ?

P. Energy, discretion, frugality and the other virtues which we sum up as Ability.

T. Can't you think of any other way to wealth ?

P. Well, there are luck and inheritance.

T. Supposing the last two frequent enough for poor men generally to build any hopes on (which they are not), isn't there a characteristic of wealth got in those ways, which detracts very much from its usefulness ?

P. Yes, it's generally very fleeting: "Easy come, easy go," and "Twenty-five years from shirt-sleeves to

shirt-sleeves," * are proverbs that have grown up from general experience.

T. And yet aren't the lazy and stupid, and even the perversely ingenious, constantly nursing schemes for making everybody rich in defiance of the ways Nature has decreed ?

P. Certainly, just as ignorant people are constantly trying to invent perpetual-motion machines, and to make water run up-hill by its own weight.

T. We have already touched some of these schemes as affecting rights in real estate, but questions come up in connection with the products of labor, and we shall see in time that they come up in regard to money and taxation. Let us now examine the most prominent of the schemes for diffusing property without diffusing Ability to produce it. What is probably the one in most general use ?

172. *Scamping work.* *P.* "Making more work." Workmen often think that they can make more work by scamping their work or neglecting it—that if a job is done so poorly as to need doing two or three times, there will be just so much more demand for labor; or that if a man does only half as much work in a day as he reasonably might, two men will get a day's work out of a day.†

* Mr. Walker, of Worcester, whose investigation has already been alluded to (147, note), found that of the sons of the one hundred and seven manufacturers in his city in 1860, only seven had property or had died leaving property up to '89.

† From the *New York Times*, April 24, 1900:

"THE CRIME OF MRS. DERRICK.—A headstrong and unmanageable woman perpetrated a crime against the new social order in a Lowell carpet-mill the other day by doing more work and earning more money than the laws of the Carpet-Weavers' Union allow. The details of the shocking affair are set forth in a despatch to our neighbor the *Sun* :

"'Lowell, Mass., April 21.—Three hundred weavers employed by the Lowell Manufacturing Company, one of the concerns in the Bigelow Carpet Company, are on a strike because one of their number, Mrs. Jessie Derrick, persists in turning more work off her loom than is permitted by the regulations of the Carpet-Weavers' Union. The union has decided upon a maximum product of two

T. Well, wouldn't that promote the general good?

P. Yes, if you can make the world richer by producing less wealth.

and one-half pieces, but Mrs. Derrick has her loom speeded up so high that she can turn off three pieces a day. On account of this the union sent word to the agent of the company and asked that he compel her to reduce her production, but he refuses to stop the woman from earning all the money she is able to. . . .

"Mrs. Derrick explains that her loom was not 'speeded up.' Not at all. It was her energy and quickness and willingness to work that wrought the mischief. Back of it all very likely lay the necessity of earning more money to support those depending on her for food. . . .

"Other carpet-weavers in the Bigelow works are as capable of getting off as much work as she, but as the union has decided it is unwise for them to do so, they all comply with the rule limiting the maximum product of each operative to two and a half pieces.

"The dead level of triumphant inferiority cannot be maintained and the comfort of the incapable and the lazy safeguarded unless the two-and-one-half-piece rule is enforced."

From the Chicago correspondence of the New York *Evening Post*, Nov. '99:

"A short time ago a Chicago man, in moving a dresser, broke off a gas-jet which projected from the wall in his bedroom. He plugged the broken pipe and took the fragment to a gas-fitting supply house, intending to buy the short piece of pipe and attach it himself. When he asked for it the salesman said:

"'Are you a journeyman gas-fitter?'

"'No,' said the customer, 'I'm a shoe-dealer. What's that got to do with buying gas-pipe?'

"'A whole lot,' said the salesman; 'I can't sell you that section of pipe unless you have a working card from the gas-fitters' union.'

"'But I want this pipe for my own house, and I'm going to put it up myself,' protested the householder.

"'That's the very trouble,' said the clerk. 'You'll have to go and hire a journeyman gas-fitter to put that pipe on, I can't sell it to you.'

"And the householder was forced to hire a gas-fitter, at \$3.75 a day, to come and do the work.

"There was a quantity of old iron piping in the basement of a building which the contractor sold to a second-hand dealer. The man drove his wagon down to the place and started to load it himself with the old pipe. He was stopped by a member of the Steam-fitters' Union, who told him he must employ members of

T. How does it affect the laborers themselves ?

P. First: the scampers keep themselves out of jobs;

the union to handle that pipe or they would call out all the union men of the building. He had paid for the stuff, and so he had to hire two men at \$4.50 a day to load his wagons with the pipe. . . .

"The Plumbers' Union has laid down the precise amount of effort which may be expended and branded 'one day.' There is a walking delegate in each ward whose duty it is to visit each job and check up the work, and any plumber found working longer than the rules allow is liable to a fine.

"In one case the stonework on a building was all completed except the keystone of the arch over the main doorway. An opening had been left for it, and the workmen were arranging a block and tackle to hoist it into place, when a walking delegate appeared and demanded whether the men engaged in the work were members of the Hoisting Engineers' Union. He was told that they were not—they were members of the Bricklayers' Union and the Stonemasons' Union and several other unions, but the hoisting engineers had been overlooked. At once he ordered the work on the building stopped until a hoisting engineer appeared to haul that forty-pound piece of stone up to its place, and all the work came to a standstill until the proper man was found.

"A lather of ordinary speed can put up sixty bundles of laths in a day. The rules of the union limit him to twenty-five. That makes the job last longer, and as the lather is paid by the day it keeps him at work more than twice as long. The plasterers who come after him can work no faster than the laths are put up, therefore his job is extended to twice its length by this simple rule.

"And now conditions have reached such a stage that the opposing forces are face to face and measuring each other's strength. The contractors and builders have warned the unions that January 1 will see a general shut-down unless rules, hours, and other conditions change. If that 'lockout' comes, no man can say where it will end."

When it does "end," it will be interesting to figure the profits the laborers have directly made through this form of scamping, not to include what they themselves will have paid out for scamped gas-fitting, steam-fitting, plumbing, hoisting and lathing.

After the foregoing was in type, the results appeared. From the *N. Y. Evening Post's* Chicago correspondence, Dec. 16, 1900:

"The Building Trades Council . . . is rapidly nearing its end. . . . It had more than 30,000 members. . . . Now it has about 10,000, and [pending withdrawals] will reduce it to 7000. . . . The loss to the men in wages by permitting the unprincipled leaders . . . to prevent them working has been in the vicinity of \$2,500,000."

Second: when they get jobs, if all scamp, tho each scamper gets paid for his false work, he has to pay for the false work of other scampers; Third: in the long run, the scamper lessens the general demand for labor, and of course his own wages.

T. Can you give an instance of how men keep themselves out of jobs?

173 (a). Keeps the scamper out of jobs. *P.* A man in New York wanted to put a trunk-lift from his cellar to his garret. Some steam-heating fixtures in the cellar were in the way. At that time, the steam-fitters had a very strong union, and it was said to be the policy to "make work" to a very extraordinary extent. Consequently steam-fitting in New York cost several times what it did in most other places, and the estimate for the alteration in question was so high that the owner concluded not to put in the lift: moral, "making work" cost the steam-fitters a job, and cost the lift-makers a job.

T. How was it with the New York plasterers?

P. In the nineties, no first-class mason in New York would do a job of plastering in less than three coats, while excellent jobs were done elsewhere in two. At length came a quarrel between masters and men, and at least one of the masters told why he had declined to do two-coat work: the trade-union would not let its men work on jobs of less than three—one-third of most plastering jobs was pure waste, including those on the buildings for which the plasterers themselves were paying rent, and moreover many jobs must have been lost in all the building trades, as was just shown in the steam-fitting and dumb-waiter trades.

174 (b). He gets only one profit but pays many. *T.* But even when the scamper has to pay other scampers, why does he lose? Why isn't it as broad as it is long?

P. Because he gets paid for his own work at first hand, but most work that he has to pay for, must pass through many hands before it reaches him, and he must pay toll to them all, and this toll is based on the scamped cost. Manufactured articles cost the consumer many times what the manufacturer gets for them. Hence, if the

hands through which the article passes, scamp their work, the consumer has to pay not only for the scamped work of the first producer (as he gets paid for his own), but for the scamped work, as well as the toll of every set of hands through which it passes before reaching him.

T. How does scamping lessen not only the demand for particular jobs, but also for labor in general?

P. Work only half done, or done at half speed, costs twice as much as if properly done—in fact more than twice as much, because not only is half the labor wasted but generally some of the material. Therefore, not only is the public unable to pay for as much of it, but it cannot, in the long run, enable an employer to pay high wages. And if laborers return less than a paying product for their wages, the capital employing them must in time be used up, the employer driven out of business, and the demand for labor be just that much less.

175 (c), *Cannot long receive good wages unless earned,*

Piecework.

T. Why wouldn't paying by the piece be a good remedy against men spreading their work over too long a time?

P. You would have to invent a remedy against scamping the pieces to get more pay in a given time. As a matter of fact, the highest order of work is done "by time," and the lowest order "by the piece." A house done by "Days' work" will generally bring more than one done by contract; and the better orders of mechanics, the world over, work by the day.

T. Putting the thing in the broadest way, if all men only pretended to work, what would be the result?

P. Nothing would be produced, and no man would have anything.

176. *Pretending and forbidding Labor.* *T.* Have the philosophers who believe in "making work" by scamping it, stopped at scamping?

P. No: Thornton* gives a case where they tried mere pretending. A lot of stone-cutting had been done contrary to trade-union rules, and the union made the bosses

pay men for standing idle over it with their tools, as long as it had taken to cut it. Of course, in the long run, that waste had to be distributed over the community, and if similar wastes were the rule, these very laborers would have had to pay back for them all that they got for their own waste. No rule is good for anybody unless it's good for everybody.

T. Has that school of philosophers even stopped at scamping and pretending work?

P. No: they go so far as to forbid it part of the time. The celebrated case of Mrs. Derrick came pretty near that, but the Australian cases surpass hers. There labor is scarce and food cheap, and a capable man can make enough to live on by working half the day. In the early nineties the incapables would not let the capables do more than half a day's work. One must either soldier all day or go home when he had done as much as a slouch usually does in a day. Capable men began leaving the colony on account of it. But the demonstration of the absurdity was shown when the fools had stopped some industries and depopulated some villages, and some of their leaders and "walking delegates" were in jail for conspiracy.

T. But after all, where is the difference between laborers restricting work, and manufacturers restricting product?

P. The manufacturer generally restricts voluntarily, while the laborer is forced to it—a direct interference with the Right to Work; if several manufacturers shut down, they all share the loss: if the incompetent limit the labors of the competent, the first gain at the others' loss; for the manufacturer, the public decides the question by refusing the goods: for the laborer, the question is decided irrespective of the public needs—the public may be suffering for the labor, but must go unsatisfied in order to enable the incompetent to get higher wages; the manufacturer's slowing up (in legitimate cases) is to prevent waste: restricting labor regardless of cases, in most of them *is* waste.

T. Well, have scamping, pretending, and choking-off labor been enough for these philosophers?

P. No: they've often gone to destroying. As one instance in many, the stone-polishers' union made all the workmen in the Hotel Savoy in New York stop work until the polish was rubbed off some marble mantels that had been polished near the quarries instead of by the New York union.

T. Now don't people falsely reason about a good many other things as they do about scamped work?

P. Yes. In advocating not only scamped work, but some kinds of taxes (563) and cheap money (406) and all other schemes for enabling a man to get something for nothing, people forget that schemes to get something for nothing are also schemes to make somebody (and themselves as often as anybody) *pay* something for nothing.

T. How do you account for people so often losing sight of that fact?

P. People generally think that high wages cover the whole question of prosperity. Men of average mind seem able only to think of themselves as producers, not as consumers. They don't seem able to reflect that they have to pay out money as well as to get it in, and that if other people's wages are higher than the value of the things produced, they themselves have to pay out something for nothing, and have also to pay middlemen's profits besides, while they themselves only receive something for nothing, without any middlemen's profits.

T. Now that we have come to some idea of the profit in slouched and scamped work, tell me what you think of its honesty.

P. The honesty of scamped work is exactly on a level with the honesty of false weight or scant measure, or an irredeemable light dollar. It is a scheme to make a man pay for a day's work without furnishing it to him.

T. Now let's look into some of the other schemes than scamping work, which have been regarded as superior to Nature's scheme for enabling men to get rich. What is at the bottom of them all?

P. More or less disguised, it is (as we saw regarding

177. Destruction
as an aid to
Production.

178. Only one class
of many schemes to
get something out
of nothing.

179. People generally
consider only income,
not outgo.

real estate (79-89)), the idea of government withdrawing its protection from property rights, so as to give those who have been too stupid or lazy or shiftless to accumulate any property of their own, a chance at that of other people.

T. What is the most extreme proposition that this idea has led to?

P. To do away with government itself, so that a man who has no property of his own can help himself to the property of other people.

T. How long would property be produced under such conditions?

P. The advocates of them don't say.

T. But aren't there some who want to do away with government, who still want property rights respected?

P. Yes, but they don't tell us how they're going to get them respected.

T. They say how they *want* to get them respected, don't they?

P. Yes, they want everybody to respect them voluntarily, and to be models of virtue all around—voluntarily. They say it's a disgrace to a man to have to be compelled.

T. Well, isn't it?

P. Yes, but all the same, a good many won't behave themselves unless they endure the disgrace.

T. Well, to what do you attribute the form of insanity that wants these self-contradictory things?

P. To the same source as most other forms of insanity—the abuse of a good thing. Government is a good thing, but it is often overdone. Those who have been unjustly oppressed by it often become incapable of seeing anything but evil in it, or in authority of any kind.

T. What are those who are afflicted in this way called?

P. Anarchists.

T. They seem to be getting more troublesome. Is there no way of suppressing them?

P. There's a perfectly logical way worth trying: if a man wants to get rid of government, rid him of it—withdraw government protection from his person and

property, if he has any (which is not likely), and give him a chance to work his theories out in practice.

T. But if government would not protect him, could it consistently restrain him?

T. Certainly: in withdrawing its defence from him, it would not give up anybody's right of self-defence, and should the anarchist attack person or property, the victim would have a right to all the defence he could muster, including that for which he would not have abandoned his right to appeal to government.

T. What are those called who are willing to retain government, but want to do away with property rights?

P. Communists and Socialists.

T. Is not poverty due to existing social arrangements as well as to the incapacity of many people?

P. Of course bad social arrangements impede the operation of the causes of wealth.

T. Then why not upset the social arrangements as proposed?

181 (a). *Badness of present laws does not prove goodness of proposed changes.*

P. That would be very well if trial had ever proved any other arrangements better; but nothing is more difficult than to tell in advance how a social arrangement is going to work. Those we have are the best we have tried, and it has taken a good many thousand years to get them even as good as they are now.

T. Why have they improved so slowly?

P. Because human nature improves slowly, and all social machinery has to be worked by human nature.

T. There is not enough argument for Anarchy to admit of its finding a place in a sane mind, so we need not discuss it any farther: but a good many sane people believe in Communism or Socialism or a mixture of them. What do the communists propose to substitute for the present order of property rights?

P. To have government make an even division all around, so that those who have saved nothing can have a share of what other people have saved.

T. But such a scheme, if it *could* succeed now, would add vastly to human happiness, wouldn't it?

P. Not unless it produced more things: we would have only a thousand dollars

183 (a). \$1,000 apiece.

apiece: for that was the average wealth in the United States in 1890. To divide it evenly would not increase the happiness of those who have less, as much as it would diminish the happiness of those who have more.

184 (b), Sudden wealth a doubtful blessing. *T.* Is sudden wealth always used well?
P. It certainly was not at the British coal-mines when a sudden rise in the price of coal gave the colliers a sudden rise in wages, and many of them spent the money in feeding their dogs on tenderloin steak, and smoking pipes with two bowls and one stem.

T. Are you opposed, then, to poor people having any more than they have now?

P. By no manner of means. I want them to have more just as fast as they can make it, and that will be no faster than they are apt to use it well—and there's hope, as we shall see later, that the ability to produce it* and to use it, are fast being evolved together.

T. But must men themselves produce unaided all they can have?

P. Not by any means: inventors and organizers are constantly enabling other people to produce more. Consequently a laborer in a civilized nation has more than a king in a barbarous one; but men seldom appreciate what they have, when many others have more.

T. But do the *rich* always use their money well?

P. By no means!—no more than the poor suddenly getting it, *always* use it badly. It's only a matter of probabilities either way; there's no universal rule with so complex a machine as human nature. It's simply the general fact that a man who gradually makes his money, is almost certain to use it better than a man who gets it suddenly.

T. But suppose the poor could use it well. Is there any other objection to Communism?

185 (c), Would last but a little while. *P.* Several. In the first place, the wealth would all soon be either frittered away, or

*The wealth in the United States, is reported by the Census to have increased as follows: We shall find evidence later (Chapter X) that the poor have received a larger proportion of it than the rich. In 1850, it was \$308 per head; in 1860, \$514; in 1870, \$780; 1880, \$870; and in 1890, \$1039.

back again in the hands of Ability. As said before, the machinery has to be worked by human nature: at the outset, communism would make the lazy and shiftless profit at the expense of the energetic and saving; while after the outset, the shiftless would, just as now, soon waste what they had, and want a new division; and then there would be less to divide.

T. Why would there be less to divide?

186 (d), and then
there would be less
than now.

P. Because the shiftless would have already used up their share, and because communism would have taken away from Ability all temptation to produce more than it could keep—that is to say, more than the average; and would take from frugality all temptation to save more than the average.

T. Any other objection?

187 (e), Meaningless
without robbery.

P. Government would have either to rob the present means of production—factories, mines, etc.—from all those who have produced and saved, or to buy them under eminent domain (93).

T. Do the communists propose eminent domain?

P. They differ among themselves, as people advocating ideas that don't hold together inevitably must; some advocate eminent domain, while some go so far as to say that all property is robbery—that people of ability and frugality have stolen from those who lack either, and that the community, in taking all the land and mines and factories and railroads without pay, would only take possession of its own.

T. Well, what's the objection to government exercising eminent domain over everything and paying for it?

P. That would leave things just as they are. Everybody would get paid for what he has, and be taxed all he has, to pay it.

T. Isn't there a practical difficulty not yet stated?

188 (f), Many kinds
of wealth cannot be
divided without
being destroyed.

P. Yes: how could you divide up a ten-thousand-dollar house, or building-lot, or diamond or picture or statue, so as to give each person his thousand dollars?

T. Couldn't you give each a share in it?

P. It's hard to tell what ten of them owning the dia-

mond could do with it. They probably couldn't hire it out to some vain woman each night: for, as nobody would be worth more than \$1,000, no woman could pretend the diamond to be hers. As to the picture and statue, perhaps they could be exhibited, if enough people worth only \$1,000 apiece would pay to see them. But as to the house and building-lot, nobody could afford to live in the house or even to make it over into a tenement; and nobody could afford to build on the lot, unless under a syndicate arrangement. People who object to corporations are generally the very ones who would make it necessary for everything worth over \$1,000 to be run by a corporation.

T. What's your general conclusion, then?

P. That civilization rests largely on things that cost more than a thousand dollars apiece, and which can't be divided or even used to any advantage when held in shares; and that these things are the prizes which Nature holds out to men of great Ability to stimulate them to do all they can to invent and organize and regulate, so as to increase and cheapen things for the public good. Consequently, if you want to introduce Communism, you've got to begin by wiping civilization out: in short, that Nature did not make this for a communistic world, but one where wealth is the first condition of effective industry and the highest art, as well as the legitimate stimulus to invention, energy and capacity, and their legitimate reward.

T. But that's a hard conclusion for the men lacking in invention, energy and capacity; and hasn't a way been proposed for making them as well off as anybody, which does not involve the impossibilities of Communism?

P. Yes, there is a wide-spread belief that it might be effected without attempting to divide everything, but merely by putting all industries under the control of government, and dividing up product equally, and thus giving the poor a share in the profits. That's Socialism.

T. Well, isn't it better than Communism?

P. It at least does away with the objection to dividing up or holding-in-common things which would be useless if divided up or held in common, and it at least

glozes over the objection to putting the capital of the frugal directly into the hands of the shiftless: it wants merely the product given to them. It proposes instead to put the capital in the hands of the politicians, and have them give the shiftless an even share of the product—so far as the politicians make any—and don't keep it for themselves.

T. Well, if the politicians can be made to behave, why isn't that a good scheme? Wouldn't it at least divide up among the poor the profits now wasted by the rich?

P. Yes, *if* the politicians could be made to behave, and *if* the profits were to be produced. But as profits depend on Ability, and Ability needs them to stimulate it, if you take them away from Ability to divide up among those who lack Ability, it's pretty hard to see who's going to produce them.

T. But at least everybody would get wages: there would be no unemployed?

P. Perhaps, but nobody would get as much wages as now. As soon as Ability flags, demand for the labor for which Ability finds work, must flag, and wages must fall; invention must flag; production must flag, and the world must grow poorer.

T. But isn't government to keep the demand for labor constant?

P. Who's to pay it, with decreased production?

T. But can't Ability be stimulated to increase production by giving it high office in superintending government industries?

P. To only a limited extent in any condition can we foresee, and for two good reasons. We now seldom pay government officers salaries that honest men, unless already well off, can afford to accept; and as long as the base and ignorant are permitted to vote, and so often elect the base and ignorant to office, the best men could not be put in office as often as necessary, even if we had sense enough to pay them decently.

T. Will even those who can afford it always take office when it is offered them?

190 (a), *Wages could not rise,*

191 (b), *Impracticability of political management,*

P. They too often have to decline because of the humiliating obligations to the bosses that office sometimes imposes.

T. What if we had to depend for the good conduct of all our industries, on the combinations of circumstances where good men can get office and will take it?

P. Those combinations so seldom occur, that, although there are many good and patriotic men in office, too often instead of the best brains competing with each other, as now, to supply our wants cheaply and in great variety, we would have to put up with what inferior government officials might provide. Production would surely dwindle from lack of good leaders, private education and charities would become impossible from lack of private wealth, and those needing charity and education would be at the mercy of the office-holders.

T. How about the individual's wages or profits?

P. Instead of being able to contract for the rewards of our work, we would have to put up with what government might offer; and if we wanted to strike, we could only strike against government itself. Yet the men who propose this state of affairs are now the loudest in complaining when government touches a strike at all—even to preserve order.

T. Well, despite all these objections, a good many think the scheme worth trying. Now a trial is not impossible, as in the case of Communism, is it? Government could get the present means of production by eminent domain, couldn't it?

P. It's not easy to see where it could get the money to pay for them: the money of the country is but a small portion of its wealth. Even suppose the government to stop all business by taking all the money to itself, when it came to pay it out for the mines and railroads and factories, it wouldn't have a tenth enough to go around.

T. Why couldn't it pay in bonds?

P. There wouldn't be enough money to redeem them.

T. But why need they be redeemed? The bonds of

192 (c), *Losses to education, charity and liberty.*

193 (d), *Futility of attempting it by eminent domain.*

many governments are not redeemed, and make very good investments.

P. To be good investments, bonds would have to bear interest, and even if such management would produce the interest (which it wouldn't), where would be the gain in government simply working the industries and paying away nearly all the production in the form of interest on the bonds to the same people who now work out the interest for themselves?

T. But wouldn't people generally, then get all that the industries produced over and above the interest on the bonds?

194 (e), *Effect on laborers.* *P.* Yes, but after wages and interest on the bonds are paid (assuming that they would be paid), that wouldn't be enough to be worth considering. The wealth that the socialists are after could **not** reach them in that way any more than it does now.

T. But advocates of the scheme say there would be more, because they think that under socialism, most men, having so much more interest in the production, would work that much the harder. Wouldn't they be apt to?

P. But it's just been shown that they could not have any more interest than now, unless government robbed the property from those who made it, and it was shown before that even if it did, the shares of but few people could be materially increased.

T. But wouldn't *everybody* be sure of a share in the product?

195 (f), *A premium on laziness.* *P.* There seem to be a good many men who, if they were sure of sharing the product, wouldn't work at all.

T. But couldn't police force them to work?

P. Not to work productively, and even if that were possible, it would be merely bringing the free citizen back under the slave's lash.

T. Have you any more objections on this score?

196 (g), *Would destroy freedom.* *P.* Yes: government would have to tell people how and when they should work—a man would be no more able to choose where he should work and what he should work at, and what he should

take for his work, than where he should buy and what he should buy. The whole thing would be a slavery more minute than any yet devised. There is no control as senseless as that of a majority.

T. And yet the laborers in Greece and Rome were slaves, and those countries managed to cut a very decent figure?

P. But the masters were not slaves, and the scheme of socialism is that each shall be the slave of all: this in spite of the fact that civilization had been made by men choosing work, doing it, and directing it, in their own interest. Even if they have had to direct slaves, it was the masters who made the civilization, not the slaves.

197 (h), *The unemployed.*

T. But in our present state, wouldn't socialism dispose of the terrible question of the unemployed? It would give everybody good wages.

P. But many people haven't the Ability to earn good wages.

T. Well, why not have government give good wages anyhow? You admit that government should promote the general convenience in many ways: why not in the most important way of all—give what it has become the fashion to call a "living wage"? Oughtn't everybody to have a decent living?

P. Yes, if he can earn it; and of course everybody ought to be able to earn a decent living, just as everybody ought to be decent. But unfortunately, not everybody is; and we have already seen the effect of the attempt to give everybody decent wages, under the English poor-law, and in the French public workshops (47). It's better a thousand times to give charity direct than disguised as unearned wages. Plenty of people will take the latter, who would rather work than take the former. Moreover, unless the workman has a boss with the power of discharge, I can't see who's to tell him what to do to make his work count.

T. Why not the government officers?

P. In Paris they didn't have the power of discharge, and if they have, what becomes of your socialism?

But aside from that, the great difficulty throughout is to get government officers who can and will do even the simplest things honestly: it is one of our great misfortunes that the men capable of guiding industry cannot often enough be got into public office of any kind (191).

198 (i). *Forcing Ability.*

T. Well, one of the schemes is to force them to, just as it is to force the laborers to work. Why not?

P. You can force a man to work in some sort of fashion with his body, but there's no *forcing* a man to do his best with his mind. He can only be tempted.

T. Well then, why not pay men of Ability enormous incomes to serve the public?

P. But the whole complaint is that they get enormous incomes now. Yet now they are not *sure* of them; if they were sure of their incomes, they would no longer need a stimulus to do their best.

T. Then why not give them large, but necessarily uncertain, shares of production?

P. That's just what they're getting now, and just what the socialists want to take away from them.

T. Well, isn't there *any* way of making the socialist scheme work?

199 (j). *When possible, will be need- less.*

P. Yes, making voters so intelligent that they will elect only the best men, and making the best men so unselfish that they will work for others as well as they work for themselves.

T. On that basis, how soon can the socialists hope for success?

P. Well, if it has taken eight thousand years of recorded history to get us up to the present Senate of the United States, possibly six or eight million years might give us one that could work socialism, but when people are Able enough to work socialism, they'll be Able enough to take care of themselves without it.

CHAPTER X.

RIGHTS IN PERSONAL PROPERTY—CONTINUED.

Reasonable Methods for Diffusing them more Evenly.

Teacher. You want the poor to get rich *gradually* then—to starve a little less each generation?

Pupil. Nobody need starve at all in a civilized country; but it makes no difference whether I want everybody to get rich in one generation or not: there is no way to bring it about: Nature has settled the matter in her own way. There is not Ability to produce enough. The annual production of the country averages less than \$250 apiece, and, as we have seen, the accumulated wealth is but about \$1,000 apiece.

T. What then must a more general diffusion of wealth wait for?

P. For a more general diffusion of Ability to produce it. As already said, it is Nature's prize to stimulate energy, forethought, temperance and honesty—in a word, Ability.

T. Do you mean that the man without Ability gains nothing from the general progress of invention?

P. General Walker seems to claim* that he gains it all, but the doctrine is not generally accepted. He plainly gains his share: for certainly the laboring man's cottage of to-day contains many comforts that the homes of the rich lacked half a century ago. But the world is still divided up as it was before among a small proportion of rich and a large proportion of not rich.

* "Political Economy," Advanced Course, §§326-36.

T. But is not the proportion growing more favorable :
 201. Diffusion in- *P.* Decidedly. Statistics prove not only
 creasing, that the whole world is growing richer, but
 that the wealth is becoming more evenly divided. The
 trade-unions, despite their frightful mistakes, have un-
 doubtedly enabled the laborer to get more of the benefit
 of the laws of competition, as we shall see hereafter, and
 they are helping diffused education in making him more
 of a thinking man.

T. But isn't that at the expense of being more of a dis-
 contented one ?

P. Discontent is a good thing, rightly used. It is the
 parent of effort.

T. But hasn't "rich richer, and poor poorer" all the
 authority of a proverb ?

202. "Rich richer,
 and poor poorer" is
 not true in civilized
 countries. *P.* Certainly, with some people. But the
 authority of a proverb is often mighty poor
 authority. This saying is simply an illus-
 tration of how a slick phrase takes hold of people. There
 is probably no greater error in economics, and yet none
 more generally believed. The facts are overwhelmingly
 against it. In the United States wages have risen an
 average of sixty-eight per cent. since 1860, and have
 nearly doubled since 1840. The census of 1880 gives the
 yearly average as \$346.91, and that of 1890 as \$444.83.
 The comparison cannot be relied on as exact, but the
 correctness of its general showing is certain.

T. But what good does that do, for wouldn't prices
 naturally rise with wages ?

P. But they haven't: taking in luxuries, they've gone
 down some eight per cent. since 1860. Leaving out
 luxuries, Professor Mayo-Smith * says that the "portion
 of family expenses directly affected by the price of com-
 modities was as 94.4 in 1891 compared with 100 in 1880";
 and of two hundred commodities *in most general* use,
 Mr. W. M. Grosvenor has computed that a dollar in '85

* In "Statistics and Economics," to which important work I
 am indebted for several other points and facts in this chapter. I am
 glad to find some of my own previous conclusions reinforced by
 his figures.

would buy a quarter more than a dollar would buy in 1860: and the Maine Bureau of Industrial Statistics reported that in 1887 a dollar would buy as much of the mechanic's usual food-supply as \$1.20 would in '82, or \$1.30 in '77. This was, of course, probably due to cheapened transportation from Western wheat-fields and cattle-ranches.

T. Well, then at least, mustn't the hours of labor have materially increased?

P. No, they average ten now, in 1860 they averaged eleven, and in 1840 nearly eleven and a half.

T. Where is there proof of all these paradoxes?

P. In one of the most elaborate economic investigations ever made, by a Committee of the Senate in 1892 and 1893, whose reports of facts fill half a dozen large volumes.

T. Well, is there anything to back up such a strange set of conclusions?

P. The report doesn't seem to need any backing up: it is a mass of tables of carefully gathered facts, but it happens to be thoroughly backed by other investigations here and in other countries.

T. What are some of the others here?

P. Wholesale clothing dealers report a great increase in average size and quality of clothes demanded, which shows that the people are better fed and exercised and better off. To come to reports of State authorities, in Massachusetts from '50 to '80, agricultural wages advanced fifty-six per cent.; from '60 to '83, general wages advanced over twenty-eight per cent., and from '60 to '85, those of mechanics twenty-five per cent.* In Connecticut from '60 to '87, men's wages advanced in the principal factories forty-three per cent., and women's fifty-seven, while their dry goods and carpets cost them more than a third less, but provisions about a tenth more. In 1860, a laborer on the Erie Canal got fifteen

* Most of the facts in this and the next two "Pupil's" paragraphs are taken from "Recent Economic Changes" by the late David A. Wells—a book that no one interested in the general welfare can afford to leave unread.

cents a cubic yard for shoveling dirt; in 1889, he got fifty cents. From 1831 to 1880, wages of cotton-spinners in the United States increased eighty per cent., while the price of cotton cloth decreased sixty per cent., and the average consumption per head doubled. Moreover, pretty much everywhere the proportion of operatives in the comparatively safe and agreeable and high-paid processes, has greatly advanced.*

T. How has it been in England?

P. In Great Britain from 1840 to 1890, the number of estates subject to succession tax increased twice as fast as population, while the average amount per estate had not increased at all. In an article in the Royal Statistical Society's Journal for June, 1895, Mr. Bowley gave figures indicating "that money wages increased 40 per cent. from 1860 to 1891, and considering the increased purchasing power of money, real wages increased 92 per cent. The eminent English authority, Mr. Giffen,† says that during the last half of the nineteenth century

* Mr. James Bartlett, a Massachusetts machinist, lately said, publicly, in speaking of the state of affairs in 1842:

"The wages of a machinist in shop were \$1 to \$1.25 a day: one nabob of a pattern-maker received the great sum of \$1.50. They went to work at five o'clock in the morning, and worked till 7:30 at night, with an hour for breakfast and three-quarters for dinner. It was several years before we obtained eleven hours a day. It has now been ten hours a day for twenty-five years or more, and we grumble at that, tho we get more than twice the wages we did forty years ago; and we are hoping to get the same or higher pay for working eight hours. I know the condition of the machinist is better than it was when I first joined the guild; he has better pay, better houses, better education, better living. For my part, I don't want any more of the good old times. The present time is the best we have ever had, tho I hope not the best we shall ever see." (Quoted in Wells.)

In Massachusetts for the period 1829-31 the probated estates under \$5,000 were 85.6 per cent. of the whole, in the period 1889-91 they had fallen to 69.5 of the whole, while those over \$50,000 had risen from 13.4 per cent. of the whole to 27 per cent. of the whole.

† Giffen, Robert: *Progress of the Working Classes in the Last Half-century.*

(that is, beginning earlier and continuing later than Mr. Bowley's figures), the average of wages in England nearly doubled, while the working hours have decreased one-fifth. When he first stated this, it was so generally doubted that he repeated his investigations with the same result.* Mr. Mullhall said that in England a

* Sir Lowthian Bell, Mr. George Lord and Mr. James Caird have given facts in support of Mr. Giffen. (Wells.)

Mr. W. H. Mallock, after an elaborate investigation in the British Census reports, the details of which are given in his "Classes and Masses," states the following conclusions: "People who are in want of the bare necessities of life . . . if, whilst their own poverty remains the same, the riches of other classes increase, do, in a certain sense, become worse off relatively. . . . But this unfortunate class . . . has grown less and less numerous relatively to the entire population." This class "is not in any sense a sign or product of our modern industrial system. A similar class existed before that system . . . and that system has relatively reduced and not increased its numbers . . . and the real problem . . . is not how to interfere with the existing economic tendencies, but how . . . to bring the residuum under their influence." "The poor" (except those who have nothing at all) "are getting richer; the rich, on an average, getting poorer . . . and of all classes in the community, the middle class is growing the fastest." Since 1830 the population has increased "in the proportion of 27 to 35; the increase of the section in question [the middle class] was in the proportion of 27 to 84." "The middle class has increased numerically in the proportion of 3 to 10; the rich class has increased only in the proportion of 3 to 8."

"From 1850 to 1881 the *working* classes have increased by about 15 per cent., whilst the middle classes have increased by more than 300 per cent." "The incomes of those with less than £600 have increased on the average something like 4 per cent., . . . while the incomes of nineteen-twentieths of those who have over £1,000 a year "have decreased on an average over 7 per cent." "Landed incomes have not increased, but decreased by 14 per cent. in England, and by 13 per cent. in Scotland." The total income of the millionaires, "if divided among the population in equal shares, would yield each inhabitant a dividend of one shilling a month." "The working classes have increased in wealth far faster than any other class in the community." "In 1880 the income of the working classes was (all deductions for the increase of population being made) more than equal to the income of all classes in 1850." In 1881 there were seven thousand windowless cabins occupied by families in Scotland; by 1891, these had "almost disappeared;

laborer who got two hundred pence for a given amount of work, from 1821 to 1848, got two hundred and eighty-five pence for the same work from 1880–83, while in the later period one hundred and seventeen pence bought as much grain as one hundred and forty-two did in the earlier period. In regard to beef, the showing was still more favorable. This cheap food was America's gift to the mother country. In 1815 there were 100,000 paupers in London. At the rate of increase of population in 1875, there should have been 300,000. There actually were less than 100,000.

T. How is it in France?

P. In France from '53 to '83 wages advanced some sixty per cent., and in the principal occupations of women (outside of domestic service), they nearly doubled.

T. How is it in Germany?

P. Labor statistics are not as easily within our reach, but income-tax statistics prove the same thing.*

T. Now what fact general over all highly civilized countries shows that the details we have been going over, must, on the whole, be correct?

P. In all civilized countries, the consumption of food the one-roomed dwellings with windows have decreased 25 per cent.; the two-roomed dwellings have *increased* by 8 per cent., and the three-roomed and four-roomed dwellings by 17 per cent." "The smaller businesses, instead of being crushed out, are increasing more rapidly than the population." "There is an increase of 15 per cent. in the school-teachers; . . . of 21 per cent. in the butchers, which shows the general increase of meat consumption; . . . of 26 per cent. in the doctors; and . . . of 53 per cent. in the persons who professionally minister to amusement." "The computed capital of the Post Office Savings Banks . . . in ten years has very nearly doubled itself."

* In Prussia, from 1876 to 1888, Dr. Soetbeer (quoted by Prof. Mayo-Smith) finds that the proportion of income-tax payers with their families to the whole population, had increased about 22 per cent., that is from 2.3 per cent. of the population to 2.8 per cent., and that the classes which had increased at the most rapid rate were those with incomes over \$500. And although the most rapid increase of all had been in the class with incomes over \$25,000, the average incomes of that class had decreased, thus showing both that more people were getting rich, and that the rich were not getting richer.

has been increasing faster than population. This cannot mean that the rich eat and drink more: for they ate and drank all they wanted before: so it must prove that the proportion of those who can eat and drink freely is increasing.

T. Well now, if, the world over, prices have not risen and still wages have risen, and the laborers have worked less time, where has the increase come from?

P. Much of it has come out of Capital's share of product. The census reports of 1880 to 1890 show that during the decade, the amount of wages paid in the country increased 131 per cent., while capital increased but 121 per cent., and value of product but 69 per cent. In England Sir Robert Giffen computes that from 1843 to 1882 capital increased 110 per cent., and wages 145 per cent. Fifty years ago, yes, thirty years ago, capital in New York itself brought seven per cent., now it hardly brings five. In many of the Western states, it brought ten or fifteen, where now it brings six or seven. A similar reduction has taken place through the civilized world. This falling off of from a third to a half in capital's share, contributes largely to the increase in wages.

T. But doesn't Ability get the benefit of the reduction?

P. Yes, but only if you include the increased Ability of the laborers. Their increased wages have come from increased productive power, in ingenuity, carefulness and steadiness. The enterprisers have been bidding for improved Labor as fast as Labor would improve itself; and the best enterprisers bid highest.

T. Does that tell the whole story?

P. No: a great deal is of course due to Ability of the enterprisers and inventors. Processes are greatly improved, and so are transportation and organization. Transportation alone costs in America but about a third of what it did even so lately as 1860, and, moreover, forests and mines and productive arable land have been opened much faster than population has increased.

T. But what do the statistics say regarding the share the enterpriser gets?

P. Professor Mayo-Smith thus sums up the evidence of the statistics regarding profit: "There is scarcely any doubt that it is falling. Production on a large scale, enormous investments of fixed capital, and increased competition, compel the entrepreneur to put up with a smaller reward." Since 1873 "the laborer has conserved or improved his position by the maintenance of, or even advance in, wages; the landowner has lost by falling rents; interest has fallen; and profits have been reduced to a narrower margin." Later he says: "This progress has been due primarily to the abundance of capital, which, on the whole, works for the benefit of the laboring classes in two directions—by competing for labor-force and thus raising wages, and by cheapening products and thus making wages go further."

T. Haven't the Trade-Unions helped raise wages?

P. Undoubtedly, so far as they have increased the laborer's intelligence, and that is very far. But so far as they have interfered with the Right to Work, and encouraged the various forms of scamping, of course they have diminished production and, inevitably, reduced wages: for wages have got to come out of production.

T. But isn't much of the advance due to the unions securing for Labor a portion of product to which it was justly entitled, and which, before the unions, it did not get?

P. Probably the men who get their living out of the unions, would insist that the unions had done it all; and on the other hand, probably many men who have suffered from the unions' mistakes, would say the unions had wasted more than they had secured. Both extremes would be wrong. The unions have unquestionably done something, tho the decrease of interest on capital, and the increase of Ability in inventors, enterprisers and the laborers themselves has plainly done so very much that it is absurd to claim that the unions have done the lion's share. Moreover, when we see that the establishments that make most money usually pay the highest

wages, it becomes plain that the competition of enterprisers for the best labor, must, independently of the unions' influence, have brought wages nearly, if not quite, as high as the enterprisers can afford to pay.

T. Well, doesn't all the evidence we've been going over, prove that there is some better way to diffuse the good things of this life, than to reduce their production by communism, socialism or scamping?

205. and from Diffu- *P.* We saw the bad effects of scamped
sion of Honesty, work on the laborers themselves (173-5), tho
they seldom suspect it. The disappearance of scamped
work alone would make an enormous difference in what
the wages would buy. Moreover, the mistakes of the
unions cannot forever overcome the economic laws which
entitle an honest workman to better wages than a dishonest one, just as an honest merchant gets better credit than a dishonest one.

T. Does everybody agree to these hopeful views of yours?

P. No: some people are occasionally much impressed when a dishonest man succeeds, and think dishonesty apt to succeed; but when an honest man succeeds, it is so much a matter of course that people don't notice it.

T. Is there much reasoning of that kind?

P. The world is full of it—people are often so much impressed by what is unusual, and so little impressed by what is usual, that they constantly overrate the frequency of the unusual, and underrate the frequency of the usual—the very fact that a thing is rare, makes them believe that it is frequent, and *vice versa*.

T. In spite, then, of an occasional rich rascal, does there seem a reasonable hope that a man can get rich honestly?

P. The criminal classes are not the rich ones.

T. Does honesty affect the cheapness of goods in any other way than through the labor of making them?

206 (a), which makes
everybody's money
go farther, *P.* Yes: the cheapness of goods is very
much affected by the cheapness of getting
them to the consumer, and that is affected
by the honesty of all dealers who handle them, as well

as of everybody engaged in transportation—cartmen, railroad people and steamboat people.

T. Can you imagine that the cheapness of goods is affected by the honesty of people who never see them at all?

P. Of course. The rates at which the farmers and miners and manufacturers can produce, and the railroads carry, and the merchants exchange, are all affected by the cheapness with which their banking business can be done, and the stocks of their companies dealt in; and that cheapness is of course affected by the honesty of the bankers and stock-brokers and their employees.

T. In the great transactions of Wall Street, do you know whether there are generally elaborate contracts drawn by expensive lawyers?

P. No: in many classes of transactions easy to recollect, the brokers rely on each other's mere word for millions, and so the great expense of time and money for written contracts is saved.

T. In banks, as a matter of fact, are the signatures of checks examined very much?

P. No: to examine signatures closely, the expense of officials would have to be doubled.

T. Do you suppose a bank or a stock exchange could have been run as cheaply as it is now, in the days of thieving Sparta, or even in those of Shylock?

P. In less honest times, modern industries simply could not have been run at all. With less honesty, the enormous complexity and rapidity of modern exchange was simply impossible.

T. Now is the cheapness of goods affected by anybody's honesty outside the producing, exchanging and banking world?

P. Certainly, the producers, exchangers, and bankers have got to depend on engineers and architects, lawyers and doctors, and if those men must be paid for dishonest work in addition to real work, the expense of it must find its way back to the commodities that everybody uses. In fact, the whole working world is so bound together that

where any part of it goes wrong, all the rest has got to share the expense.

T. Now stretch your imagination a little farther and see if there is not still another portion of the world whose honesty affects the price of everything that everybody uses.

P. Yes. The honesty of the government is important to us everywhere. Every taxpayer must not only pay his own direct share of all official thievery and carelessness, but even those who do not realize that they are taxpayers, must pay in what are called indirect taxes, which are levied on many goods in the hands of manufacturers or wholesalers, and added to the price when they reach the retailer.

T. We will consider the details of taxation later. Now next to increased honesty, what is the most noticeable agency in diffusing wealth?

P. There ought to be a pretty plain answer to that question in the fact that one-tenth of the working-people in the United States are directly or indirectly dependent for a living on the railroads, while in 1830 not one was.

T. Of course you don't mean that one man out of ten is a railroad employee?

P. Certainly not, but that one man out of ten is occupied in ways that would be impossible if railroads did not exist.

T. Well, that's suggestive enough, but expand it a little, please.

P. It's only one of a thousand facts that mean constant new demand for labor, and resulting higher wages, and at the same time, new facilities of exchange or production, with resulting variety and cheapness of product. Fortunately, man is a creature—the only one we know—of constantly increasing wants. Those who have money to pay out are always more ready to pay it for labor on new things, than for wasting labor on old ones: so there's no need of industrial suicide by scamping. Think of the labor lately called for by bicycles, telephones,

207 (b), especially
honesty in Govern-
ment,

208, and from
creating and sup-
plying new wants,

electric lighting and electric railways, and hosts of other new things.

T. Where has this labor for the new things come from?

P. Out of more wearing and disagreeable pursuits, of course (202, end of note from Mallock).*

T. But there would be no such pursuits unless the demand for them were very strong, so they must have been kept going when labor has left them: how has that been possible?

P. By labor-saving machinery. Of course, as labor leaves the wearing and disagreeable pursuits for more attractive ones, the deserted pursuits call doubly for labor-saving machinery, and are doubly ready to reward the inventor. Farming, for instance, tho healthful, is lonely and laborious. Within a generation, inventors have given the farm machinery that has released a large part of the farmhand labor and driven it into the towns.

T. Has labor thus released done more than merely find employment without slowing up the earlier kinds of labor?

P. Yes, it has made so many new things that it has kept the other mechanics on the jump to make enough old ones to exchange for them.

T. But machinery often releases labor and still increases supply. How does the world get fitted to the increase of supply?

P. Competition to sell the increased supply lowers prices so much that people soon use more goods of the same kind, or save enough money because of their lowered price, to use more goods of other kinds.

* According to the United States census, from 1880 to 1890, those in the laborious pursuits of agriculture and the laborious and dangerous ones of mining and fisheries had decreased from 46 per cent. of the whole number of persons laboring, to 39.6 per cent. In domestic and personal service, there had been a decrease from 20.1 to 19.2 per cent. While in the more desirable pursuits, professional service had increased from 3.5 per cent. to 4.2; in trade and transportation, from 10.7 to 14.6; and in manufacturing and mechanical industries, from 19.6 to 22.4.

T. But how does all this "make work" and do away with reason for scamping? Isn't it as broad as it's long—new things call for labor, labor-saving machinery releases it, and the amount of employment is just the same as before?

P. No: in most cases labor-saving machinery cheapens goods so that several people can buy where one could before, and this increases demand for the old goods, so that makers of them soon want back some of their old laborers whom machinery discharged, and often more laborers still.

T. Has the introduction of labor-saving machinery always been a blessing to workmen?
210 (b). which, tho of some harm at the outset,

P. Of course it was always one so far as they were consumers, but, in the early days of "the great industry" introduced by steam, it threw so many out of employment that they had precious little to consume.

T. Was it directly steam-power that led to the change?

P. More directly it was inventions like Arkwright's loom, Whitney's cotton-gin, and Stephenson's locomotive. But they could come only after other men of great Ability had provided the steam-power.

T. Were wages generally fair in the early stages of the great industry?

P. No: the great industry suddenly produced so many more goods with so much less labor, that great numbers of people were thrown out of employment until the world got fitted to the new state of affairs. Not only was time needed for invention to supply new occupations, but there was scant communication and travel to get laborers new places: so the distress was very great. Many people thought that inventions were a curse; and workmen, and even sentimental philanthropists, often destroyed machinery.

T. What was the effect of these circumstances on economic doctrine?

P. For a time the poor were getting poorer from lack of employment, and the rich richer from the profits of the machines: that started the cry of "the poor poorer,

and the rich richer " which became one of the stock expressions of Marx, Lassalle and their school.

T. Are the workmen now often opposed to machinery that throws them out of employment ?

211 (c), is but self- *P.* Not as generally or as bitterly as they
dom of any now. once were. Many of them more or less clearly realize three things, especially the first—that a cheapening of most things increases demand so much that as many producers will be needed with machines as without them; second, that even if that does not turn out to be the case, the discharged people are apt to get work in making some new product or cheapening some old one; and third, that the laborers themselves enjoy the cheapening of product, just as the rest of the community does.

T. So much for what the general progress of the world, outside of the man himself, can do for him. But even now, things don't always adjust themselves promptly enough to save the poor man the choice between getting nothing at all, and getting half what he produces. Now what's his protection against such injustice ?

P. The poor man's only protection against being forced to take what he can get, is not to be poor.

T. How can he help it ?

212. A man secures *P.* By putting away *something* whenever
wealth himself he can spare it. Then he or his Union can
(a) by forehanded- say to anybody who wants to hire: " If
ness against hard you won't give what we really produce, we
times, won't work at all, and you won't have any chance to make profits."

T. But hadn't a man better take a little less in bad times, rather than go unemployed ?

P. Certainly, especially as, in one sense, he can't produce as much in bad times as in good.

T. What do you mean by that ? Can't a cloth-mill run out just as many yards of cloth in bad times as in good ?

P. Certainly, but it won't have the chance to run out as many, because most things won't sell for as much—perhaps won't sell at all.

T. But what difference does it make to a man if his own product fall in price when other things fall too? If he only gets one dollar where he used to get two, but can buy twice as much with that dollar, he's just as well off, isn't he?

213 (b), in which prices of necessities tend to keep up, while those of luxuries fall.

P. It looks so at first, but when prices fall in bad times, they don't all fall together. When people have to economize, they cut off the things they can easiest do without: so prices of those things fall; but the prices of things a man *must* have, keep up pretty well, and for them he must pay two dollars where he paid two before, even if he gets but one dollar for the sort of things he produces himself.

T. But aren't the things that a man can do without, but a small portion of what is produced?

P. On the contrary, civilization consists almost entirely in things (and thoughts) that a man can do without. The savage has all that a man *must* have. Even take tobacco and whiskey—not that they are civilization, but they are things that people *can* do without, and yet they cost the country more than bread and meat put together.

T. But there must be other things that people give up easier than tobacco and alcohol, aren't there?

P. Yes: people can generally be comfortable for a time without new clothes or new furniture, or repairing and painting, or giving parties.

T. Why do the prices of things that people can do without, fall in hard times?

P. Because when business is slow, as it is in luxuries in hard times, people compete for customers by lowering prices.

T. How do such prices ever get back to their natural level?

P. When times are good, people want so many more things, that the supply is apt to be a little short, and they compete for them by bidding higher prices.

T. But a man can't save much unless he produces much. Now what can he who has not the Ability to produce much, do for himself?

P. That is partly a question between him and the God who made him as he is; but it is also partly a question between him and himself: for unless a man is an idiot, he can do something to cultivate Ability.

T. How?

P. Ability consists largely in knowledge, foresight, self-control and energy—a man can educate himself, think ahead, fight laziness, and control all desires that tempt him to seek a small present enjoyment at the expense of a greater future one.

T. Haven't you left out taking care of his health?

P. No. If he educates himself in the most necessary knowledge—that of his own body, and does not sacrifice the future to the temptations of the present, and is not lazy, he does take care of his health.

T. Suppose he overworks?

P. There is not much danger of overwork; there is more danger of overworry under the name of overwork.

215. Poverty seldom blameless. *T.* As a matter of fact, do people seem to benefit when they take the good advice you have been giving?

P. As a matter of fact, it is next to impossible to find a man suffering from poverty, if he is educated, forehanded, self-denying and energetic. It is only in cases of very exceptional misfortune, that distressful poverty is not a man's own fault.

T. But people want something more than to be merely above distressful poverty. Is there any hope of a man born poor, cultivating so much Ability that he can make himself very comfortable indeed?

216. Most rich men born poor. *P.* Most of the rich men were born poor.* Of course it is hard to tell how much of

* Mr. Walker (147 and 171, notes) found that in '78 there were one hundred and seventy-six men conducting ten leading kinds of manufacture in Worcester, and only fifteen of them were the sons of manufacturers, and all but fifteen began as journeymen. (Condensed from Wells.)

The author once got a city audience of workmen to announce

their Ability was born in them, and how much cultivated, but it is certain that their spare time went into studying their work instead of playing, and that their early sixpences went into the savings-bank instead of the beer-pot.

T. But are you counseling that nobody should have a good time while he is young and poor?

P. Not a bit of it. Happiness certainly
 217. Happiness not
 dependent on wealth. does not depend entirely on wealth. The best times don't cost much money; books, music, swims, and walks in the parks and fields and under the stars, are within everybody's reach, if they only would cultivate a taste for them. A man should consider not his youth alone, but his whole life—how he will have the best time by and large. In their youth, the wisest men have invested work and study and savings which have brought them compound interest later; while those who have indulged themselves unduly while young, had no rewards to reap later, unless sickness and poverty are rewards.

218. Wise philan-
 thropy necessary to
 civilization. *T.* Wouldn't a more general diffusion of human charity answer the purpose of a more general diffusion of Ability and Honesty?

P. Nothing can answer that purpose, because Nature's law is that a man, to accomplish anything, must take care of himself: but charity can help if it takes the right directions, and hinder if it takes the wrong ones.

T. What are the wrong ones?

P. Indiscriminate giving to those who would consume without producing, as the Communists and Socialists propose.

T. What are the right ones?

P. Giving in directions that tend to develop Ability.

T. What is the plainest of those?

P. Educating the ignorant, and relieving such of the

what proportion of their employers began as journeymen. Nearly all did. Tho such facts are too generally known to require proof, they are not taken into account by those who argue "rich richer, and poor poorer."

sick and hungry as are apt to try to produce for themselves when they are well enough.

T. But how about the sick and hungry who are *not* able to help themselves? Are they not on the whole more pitiable than the others?

P. My sentence was all right: they'll help themselves *when* they're well enough, only they'll never be well enough. They are the constitutional paupers, and it seems settled that somebody else should take care of them when their relatives can't.

T. But why should worthless people be taken care of at all? Wouldn't it be better to let them die and get rid of them? That's Nature's way, and isn't it better to follow Nature?

P. That might seem the common sense of it, but such people if you don't relieve them are apt to turn into criminals, and make more trouble than they do as mere paupers.

T. Is there no other objection?

P. Yes, a stronger one. When Nature evolved human intelligence and human sympathies, she started a way with the unfortunates and incapables different from her old way of letting them starve: and, somehow, all the nations, like India and China, that do let their worthless people die, don't succeed in being worth very much themselves.

T. Well, how about nations like Italy and Spain who give freely to beggars who could make a living if they would?

P. That's not a question of helping the unfortunate and incapable, but of encouraging the lazy. Such countries, of course, are full of beggars, and do not get on as well as the countries where everybody has to produce what he lives on, if he is able to.

T. Now as you protest against all the comprehensive social changes that have been proposed to help the poor, just what would you do to help the man who couldn't earn a living?

P. The same as now, only as much better as we can: civilization has been working at that problem some thousands of

219 (a). It should
continue on present
lines.

years, and must have learned something. Wash him, if he won't wash himself, doctor him, massage him, feed him, exercise him, make as much of a man of him as you can, educate him without devoting as much time to the most artificial spelling in the world as to some decent handicraft, and then turn him loose, if he's fit to turn loose, to be farther strengthened by the discipline of the world.

T. All that sounds rather academic, in view of the fact that there are constantly many able and honest men out of a job. What do you propose to do with them?

P. Well, in the first place, I don't propose to consider myself wise enough to remedy at once all the defects that the wisdom of the whole world has vainly attacked for a good many thousand years. But I also don't propose to throw over all it has succeeded in doing, in favor of imaginative untried schemes, especially if they don't hold together any better than those we have examined here.

T. Will you be kind enough to answer my question? Can't you propose some way of helping deserving men whom the shifts and accidents of trade are constantly throwing out of employment?

P. Tide them over, of course, but (more effective still, tho, like all reform, slow) educate them so that they will more often anticipate the shifts and accidents of trade.

T. You can't do everything by education. There are often highly educated doctors, lawyers, engineers, architects with nothing to do.

P. Education *does* help them: they generally have more forethought than men less fortunately brought up, and so are apt to have something laid up for a rainy day.

T. But those who have nothing laid up—who if they ever had anything, have exhausted it?

P. The Charity Organization Societies and Labor Bureaus are doing excellent work for such—better than any government ever did or is apt to do. We ought all to help such organizations.

T. But would you have philanthropy entirely spontaneous, or is there a condition where you are willing that government should take one man's property and give it to another ?

220 (b). *It should help only those that cannot work.*

P. Spontaneous philanthropy may not always be within reach, tho it is generally where a little sense can find it; but government is always at hand, and may properly support a man who really cannot support himself and has no relatives who can support him.

T. But would you put any limits on what government should take for such purposes ?

P. Certainly; it should not take enough to prevent lazy people trying to support themselves, or to discourage Able people from producing.

221. *Benevolence does not prevent accumulating wealth.*

T. There seems, then, to be something in history to show that a reasonable compassion for suffering, even if the suffering comes from a man's own weakness and fault, helps people who feel it, to get ahead. Do any other facts besides the progress of the benevolent nations look as if the habit of being decent tends to enlarge Ability ?

P. Yes; many of the richest men are benevolent, and get rich and stay rich, in spite of all they give away.

T. Now for some pages back, you have been showing the hopeless absurdity of some pet schemes for helping the poor man by law. Do you think that there are no laws possible to help the less fortunate masses of mankind ?

222. *Province of the law.*

P. All good laws help everybody, and there have been several cases where laws have prevented the strong from oppressing the weak; but there is a great difference between laws to prevent oppression, and laws to give a man more than he can produce, at the expense of somebody else. Such laws, so far as they can be made to work, would simply oppress the somebody else.

T. But where a man is living in luxury and idleness and selfishness, might not a little oppression for the benefit of less fortunate people, be good for him too ?

223 (a), *Cannot discriminate between people.*

P. Perhaps, if it were possible for the law to begin oppressing, without going farther and oppressing the wrong people.

T. Wouldn't it be pretty safe to take away from a man all that he might have over a reasonably good living?

P. Yes, if you wanted to stop the usefulness of such men as Vanderbilt and Stewart just at the time when they were giving employment to most people and doing the most to make everybody's money go farther.

T. But suppose a man is getting rich by the sort of speculation which is about the same as robbery?

P. You want to be very careful in selecting your "sort of speculation." Most speculation saves the community a great deal of money by anticipating changes and preparing for them. It is like springs on a wagon.

T. But if speculation is by deceit and monopoly?

P. Of course all ill-gotten gains should be restored, but it isn't so plain that they should be confiscated to public use if the robbed person cannot be identified, and all robbed people are interested that they should be, but I haven't heard of any new law to make it easier to prove gains ill-gotten than the present laws do.

T. But suppose another case—that a man is not active either in production or speculation, but is merely living on a fortune which you need not prove to be unjustly earned, but which in fact was not earned by its possessor *at all*—for which he never gave the community any return; why not relieve him of that excess which does him no good, and put it where it will do some?

P. The law could not go into such fine questions as the amount of good it does him, or he does with it.

T. But suppose that question were "lumped." If a man spends a great superfluity even in the best way—in philanthropic work, and fine buildings and works of art and all that, why not let the community take that money and spend it for the same things, so that many men would enjoy them, instead of one man and his friends?

224 (b), *Cannot use wealth wisely.*

P. For one reason, the community would probably spend it very badly. Tammany taste, and even Congressional taste, is not good, and even

that of the Army of the Tennessee has been questioned.

T. Is there any other reason?

225 (c). Must not *P.* Yes, a better reason, already partly
paralyze Ability. given. Such fortunes, even if wisely devoted to the public good, would not begin to benefit the public as much as do many of the efforts of enterprisers which would not have been called forth if the enterprisers could not leave their fortunes to whom they please. Enterprisers would be apt to stop in mid-career, if going on involved accustoming their children to habits of living which they could not hope to keep up. When a great enterpriser is at the height of his powers, his ambitions for himself are apt to be satisfied in most cases. His usefulness to his employees and to the community is kept up for the sake of that share of his production which he can leave to his children.

T. When we were discussing the general principles of rights and duties, we concluded that there is a certain balance in things. Now how does that bear on the duties of a rich or able man?

226. Duties of *P.* While the world is at work, every
wealth. man, no matter what his father did, should do his share: and as a man who has great powers or great opportunities, gets much more from the world than mere government convenience and police protection,—much more in the way of honor and ease than his money pays for, he consequently owes the community something more than merely his share of the ordinary taxes.

T. But while we admit that the great enterpriser does his share of the world's work pretty well when, in addition to paying his taxes and being reasonable in his charities, he finds work for his less able fellow men, and conducts his enterprises honestly and liberally: how about the rich man who is *not* an enterpriser?

P. Well, here is the country suffering from having in political office too few men who are so rich that they can afford to be honest.

227 (a). In politics, *T.* Why don't they take office, then?

P. There are many reasons—a few of

the men are too modest (wisely so, in some instances), but most of them prefer to amuse themselves, all of them hate to associate with the low type of politician we sometimes elect, and—perhaps the strongest reason of all—our people are not fond of electing rich men of leisure, unless they started in the ranks; and even then, in too many cases, unless the candidates are ready to pay for it.

T. Well, why shouldn't they pay for it?

P. There's enough bribery of bosses and of voters already.

T. But to be useful in politics, need a man take office?

P. No: he can study politics and public men so as to know good from bad, he can support the good and oppose the bad, and help educate the people to do the same.

T. But are there not other ways than politics in which a man of leisure can reciprocate what the community is doing for him?

P. Certainly, there are all sorts of charitable and educational and artistic institutions, and necessities for new institutions, that need his time even more than they need his money.

T. But suppose he amuses others while he amuses himself—horse-races, yacht-races and that sort of thing?

P. Very well, if that's the best he can do, and all he can do.

T. Compared with other countries, does America get her share of service in politics, charity, education, public improvements, the arts, and even amusement, from her men of leisure?

P. No: in older countries, such duties are matters of course in the education of the more fortunate classes.

228 (b). In charity and education or even in sport,
229. America's rich men peculiarly oblivious of public duty.

T. But here, as we are all free and equal and govern ourselves, is our need of a class to attend to such duties as great as the need of the older countries?

P. Much greater: we govern ourselves very badly. Tho the Old World sometimes sends us a Carl Schurz, a Godkin or a Franz Sigel, we are still the dumping-ground for the refuse population; and we have no class of

hereditary politicians and men of public spirit, and no long and wealthy past sending us a rich inheritance of charitable, educational and artistic institutions.

T. Then as to the American man of leisure who satisfies himself by merely giving money, neglects his other duties, and devotes himself to mere selfish sports and luxury, what shall we say of him compared with the European one who does the same thing?

P. The American man of leisure who neglects his duties to the community is just as much more blamable than the European one, as our civilization is younger and less developed than the European one.

T. What is the relation of such a man, anywhere, to his fellow men?

P. A man, rich or poor, who does not do his fair share of the world's work, is simply one of "the dependent classes"—he depends on others while giving no adequate return.

T. Why is not his money an adequate return?

P. It is, but unless he made it himself, he is merely dependent on the man who made it, whether that man be alive or dead. Dependence does very well for children, but it's disgraceful in a man.

230. Useless rich
man a "dependent,"

CHAPTER XI.

RIGHTS OF PROPERTY AS CAPITAL.

Teacher. What sources of property rights have we so far considered ?

Pupil. Land (including, of course, its rent), the wages of ordinary Labor, and the profits of Ability.

T. Should government protect all those property rights—in rent, wages and profits ?

P. Of course. The question is too simple to discuss.

T. Tell me, then, if government should protect any one dollar of rent, wages or profits more than any other.

P. The idea would be absurd.

T. Suppose, then, that a laborer does not use up all his wages: is it government's duty to protect his rights in only the portion which he uses up ?

P. That idea would be twice as absurd as the other. Of course if you admit that government should protect a man's enjoyment of his wages, you doubly admit that it should protect his enjoyment of his savings.

T. If, then, instead of wasting his surplus wages in expensive food or drink, or unnecessarily fine clothes, he sees fit to save them and add to the permanent wealth of the community in the shape of, say, an addition to his house, or by cultivating more land as a garden, is it government's duty to protect his rights in that ?

P. To suppose to the contrary, would be even more ridiculous than either of the previous suppositions.

T. Suppose, tho, that instead of enjoying his savings

himself (by, say, adding to his house or garden) he sees fit to provide employment for other laborers, by building a little factory and stocking it with tools, should government equally protect his rights in that?

P. To doubt it would be the most ridiculous of all.

T. But supposing that instead of stopping at saving enough to build a little factory, he were in time to save enough to build a big one, or even a railroad, should government protect his rights in that too?

P. It's self-evident. To question it would be to say that government should protect a man while he is being of comparatively moderate usefulness, but should desert him as soon as he begins to be of great usefulness.

T. Have you just been going over the ground by which most rich men become rich?

P. Certainly: the men who are constantly grumbling that "the poor man stands no chance" keep their eyes tight shut to the plain fact that the vast majority of rich men started poor, and got rich by the ways we have been describing.

T. Didn't they inherit their money?

P. Not one in ten of them, and when they did, their fathers generally began poor and got it in the ways described.

T. Did they save all they used?

P. By no means. As soon as a man shows 232. A man who can use money can hire it. that he has the Ability to make, save and use a little money, other people who have saved are glad to lend him more. Money seeks just such investments.

T. What is money thus saved, and employed in the instruments of production, called?

P. Capital.

T. What are the usual forms of capital?

P. Land—where used for a farm, factory, 233. What capital consists in. mine, railroad, or anything else that produces or saves wealth; all tools used in production—including machinery, vehicles and animals; all stocks of goods for sale; and all wages and other expenses to keep the industry going before the product is sold.

T. You first named the essentials of modern industry

as Labor, Ability, and Land. But as we have gone on, you have indicated many things besides land as equally essential. Hadn't you better broaden your definition?

P. All those things eventually depend on the land, but it is true that it is much handier to group all under the name of Capital.

T. Very good. Now if capital is in land,
234. *Rent.* in what shape does it get its returns?

P. In rent, unless a man works it himself, and even then, what he gets more than the equivalent of wages could fairly be called rent.

T. Suppose an enterpriser hires tools, could what he pays for them be fairly called rent?

P. It often is.

T. Suppose instead of hiring tools or land, he goes to a man whose savings are in money, and hires that, in order that he may buy land and tools to give workmen employment. What name is given to what he pays for the use of the money?

P. That depends upon whether he turns over a share of his profits, whatever they may be, or pays a fixed price.

T. Suppose he pays a fixed amount for
235. *Interest.* each dollar and each day's use of it?

P. He pays interest.

T. Is there any reason why, if a man keeps his savings ready to hire to others in the shape of money, he should not get paid for the use of them, just as he is paid for the use of them if he puts them in land or tools?

P. To deny a man's right to interest on his money is as absurd as to deny his right to rent for his land, or hire for his horse or boat or tools.

T. Has that always been the world's opinion?

P. No: the world has had to outgrow a great many foolish opinions, and will have to outgrow a great many more, I suppose.

T. What was all interest on money called
236. *Usury.* in the good old times when people were even more foolish than they are now?

P. Usury.

T. And was the taking of usury considered wrong?

P. Yes, and sometimes is still, for that matter.

T. But is all interest called usury now?

P. No, only interest above the legal rate.

T. Is there a legal rate everywhere?

P. No: in some places people can agree on what rate they please, but the law generally provides a rate that shall apply to a debt in dispute or otherwise delayed, until it is settled.

T. But in some places, does the law fix a rate which can never legally be exceeded?

P. Yes.

T. Are such laws generally observed?

P. No: they are simply ridiculous survivals of the old superstitions that prevailed before people knew much about money.

237 (a). *Laws against it useless,*

T. What is the legal rate in New York?

P. Six per cent.

T. What is the actual rate in Wall Street?

P. Generally from two to four per cent., but sometimes, for a short pinch, from one hundred to two hundred per cent.

T. How does the law, in New York for instance, punish taking more than the legal rate?

P. Practically not at all: for nobody calls upon the law. But if anybody did, he would not have to pay back the money he borrowed.

T. Why should not law-abiding citizens call upon the law, when it would enable them to get rid of their debts?

P. Because a man's promise to pay is a more sacred thing than a worn-out law, and because a man who has acted to the contrary would find it hard to borrow the next time he might be in need.

T. Has anybody acted on your radical opinions about the absurdity of usury laws?

P. Certainly. In England there hasn't been a usury law for over thirty years, and

238 (b). *Disappearing from enlightened communities,*

in our more progressive states, people can contract for any rate they please, tho a legal rate is always provided if money lying in dispute is ultimately recovered.

T. Why then is such a useless and ridiculous law kept on our statute-books ?

P. Because the majority of voters are too stupid to get trusted with much money, or know much about money, and they have an idea that a legal rate of interest enables them, if they can borrow at all, to borrow lower than they otherwise could.

T. Is the fact as they suppose ?

P. Quite the contrary: they generally have to pay more than the market rate, in order to compensate the lender for the risk of their appealing to the law to release them from paying back.

T. What is your opinion, then, of the effect of usury laws ?

P. Usury laws are a disadvantage to everybody, and to the poor man most of all. The poor man *nearly always* has to pay the legal rate, while the rich man may not be paying a quarter as much; and when the man in good credit can get all he wants at the legal rate or below, it is generally impossible for even the *deserving* poor man to get it below the legal rate, and often impossible for him to borrow at all. If there were no usury laws, he would generally be able to get money at somewhere near the market price.

T. Well, aren't you a little wholesale ? Do you mean your remarks to apply to all countries ?

P. No: in backward and ignorant countries, clever usurers sometimes despoil the stupid people frightfully. Such people might be better off if paternal governments would give them usury laws. But a people professing (rightly or wrongly) the ability to govern themselves, should in consistency profess to be able to make their own contracts.

T. Now let's take up a new phase of capital. We have seen (146, 149) that for the community to get the benefit of "the great industry" through cheapened product, it is necessary to do things on a very large scale. Now are there not some things that it is not worth while to do at all unless they are done on a very large scale ?

239 (c). *Hard on borrowers.*

240. Needs for associating Capital.

P. Certainly—railroads and steamships, for instance.

T. Well, suppose each man in the civilized world who is rich enough, were to build a railroad or a steamship or a great factory or some other great convenience, are there enough rich men to give us all the railroads and steamships and similar great enterprises that are needed?

P. Probably not half enough.

T. Well, suppose there were enough, would each rich man be wise to put his whole fortune into making one or two such things?

P. No: it is never wise to put all the eggs in one basket.

T. Aren't there some very important enterprises into which it is very unwise for anybody to put more than he can afford to lose?

P. Yes, such as new inventions and mines and explorations, and other uncertain things.

T. Well, how is the capital generally obtained for enterprises too large or too uncertain to be undertaken by one man, or by a partnership of two or three?

P. A great number of people—sometimes
241. *Incorporations.* thousands, put their money together, and elect some of their number to manage the enterprise. Judge Baldwin* says that probably four-fifths of the business capital and of the industry of the country are now represented in such associations.

T. But if a hundred men combine to do a business, how would anybody want to trust them, when to collect, say a hundred dollars, he might have to sue a hundred men for a dollar apiece?

P. The law has met this difficulty by providing that, under proper circumstances, a number of persons may be incorporated into one fictitious person called a corporation, and that the corporation may be sued, or may sue or do business in almost any way, just as if it were a single person.

242 (a). *As affecting liability.* *T.* But if you and I go into business together as partners, no matter if each of us puts in only a tenth of what he has, can not either run

* "Modern Political Problems."

the firm into debt so that both might have to pay out all that we have ?

P. Yes.

T. And this while both of us are attending to the business ourselves every day ?

P. Yes.

T. Well now, suppose an enterprise were proposed to be owned by a thousand partners whose interests don't average more than a thousand dollars apiece, would anybody be foolish enough to take an interest, when any one of the thousand partners might run the concern into debt so as to use up the whole fortune of any of the others ?

P. Yes: people have often been just that foolish. A very conspicuous case is that of the Glasgow Bank which failed in the seventies: partners who were not interested more than a hundred or two dollars—some of them women and old people and children, were deprived of that and of all their other means of support to pay the bank's debts.

T. Well, how comes it, then, that after such experiences people ever take the risk of these big enterprises ?

P. Because laws have been made that the members of corporations observing certain rules to protect the public against bad management, shall not be liable for the debts of the corporations beyond the amounts they have invested.

T. But in a partnership, if a partner dies 243 (b). *Perpetuity*, the partnership usually comes to an end; and (unless careful arrangements have been made to the contrary) the business must be sold, even if it is bought in by the other partners and the family of the deceased. Now if there are a thousand people in a corporation, how are you going to sell the whole thing out whenever any one of them dies ?

P. The law provides that corporations shall not come to an end when one of the contributors dies, but that his share shall go on, without being separated, to those who inherit from him.

T. How is this share kept track of, when there may be thousands of subscribers?

244 (c). *Stocks and bonds.*

P. All the subscriptions are entered in a book, and numbered certificates, called shares of stock, are issued for them, generally one share for each hundred dollars subscribed.

T. What is the bond of a corporation?

P. When a corporation wishes to borrow for a considerable time, it generally executes a mortgage (114) to some one party, who sells out the obligation the mortgage secures in portions generally varying from fifty dollars to one thousand dollars, according to circumstances. These portions are expressed in documents under seal (103) which are called bonds (115), and are sold to anybody who wants them. Many of ours have been bought by Europeans: in other words, the Europeans have lent us a great deal of money.

T. What is the difference between stocks and bonds?

P. A certificate of stock declares that the holder is part owner of property; a bond declares that the holder owns a *claim against* a property, which claim is fixed in amount, and must be satisfied before the owners of the property can benefit from the property.

T. Which have the steadier value, stocks or bonds?

P. A piece of property need not pay more than a hundred cents on the dollar upon any bonds it may be liable for, and it *must* pay that much if it can, and it generally can: for people are not apt to take bonds on a piece of property for more than a part of what it is worth. But if it turns out to be worth barely the amount of its bonds, the stockholders get nothing. On the other hand, if an enterprise is enormously successful, the bondholders get only the amount of their bonds, and the stockholders get all the rest.

T. You say stocks and bonds are claims against property. Do you mean real or personal?

P. Both, tho the law regards the stocks and bonds themselves as personal property.

T. Do people sell stocks and bonds?

P. Yes, just as they do any other value, and the places

where those of the most prominent companies are bought and sold are called stock-exchanges.

T. By the way, can you tell me how the prices of stocks at the exchanges become guides in settling many civic questions?

P. Of course when business is expected to be good, the prices of stocks are high, because the enterprises they represent are expected to divide good profits—pay good dividends. Therefore when a great question like a political campaign or a war is before the people, the prospects of one side or the other will affect the price of stocks. So when a rise in stocks generally attends the good prospects of one side, that must be the side which makes for safety of property, activity of business, and high wages.

T. Are the stocks and bonds of all corporations dealt in at the stock-exchanges?

P. By no means: only those which the managers of the exchanges think of enough importance—probably not one in ten thousand.

T. How are the small corporations affecting the craving for land that some philosophers seem to think the dearest of all human desires?

P. Unfavorably: laborers are not trying to own their own homes as they used to, but are putting their savings more into all sorts of incorporated societies.

T. What now, in a word, are the principal benefits conferred on the community by corporations?

P. Corporations make it possible to cheapen product by the fullest development of "the great industry," to carry on enterprises too great or too uncertain for private capital, and to easily secure interests in business for the benefit of the owners' heirs.

T. Is it another advantage that their stocks and bonds are often good investments?

P. Some are and some are not. The bonds of the successful ones are very convenient investments for people who have a little more money than they want to put in a savings-bank, but have not money enough to buy a piece of land worth taking care of, or a mortgage

on one. Those sold on the exchanges are also good investments for funds that the owner may want to use at short notice.

245 (d). *Large corporations not all owned by the rich.*

T. But are not the bonds and stocks of the corporations all owned by rich people?

P. There never was a greater mistake. The general course of the money of people of moderate means, unless they have it invested in their own homes and shops, or building and loan associations, is something like this : a great deal of it goes directly into the bonds or stocks of corporations, and much goes into the savings-bank; the savings-banks gather up the little deposits and lend them out in large amounts, sometimes on the bonds of corporations, but generally on mortgages on the land of the rich; and the sums thus borrowed are very largely invested by the rich in the corporate enterprises which they organize. So the fact is that, at bottom, the corporations are really largely owned by people of very moderate means—especially by widows and orphans who cannot go into business or manage real estate.

246 (e). *Irresponsibility of corporations.*

T. So much for the advantages of corporations; now can't you find among them elements of disadvantage?

P. The chief one is that the liability of shareholders is limited, and as, in the large corporations, it is an impossibility for many shareholders to keep close oversight, there is great danger of reckless management. This danger also weakens the credit of the smaller corporations.

T. Why are there so many unimportant little corporations?

247 (f). *Very small corporations undesirable.*

P. Not only because of the advantages over partnership already explained, but also because some time ago people thought it made a business look big to call it a company, but that has been overdone.

T. Are the small corporations to be encouraged?

P. The financial irresponsibility of the very small ones generally makes them a nuisance; especially as many are started for the express purpose of defrauding

by the pretentious name of a "company," and without personal liability. The privilege of incorporation should not be given below a considerable amount of capital.

T. Won't the evil be apt to correct itself through the growing unwillingness of people to trust them?

P. The gull-crop seems inexhaustible.

T. How does Labor generally regard them?

P. As corporations do not die, and generate corporations. 248 (g). *Why Labor* *generally* consist of so many people that they are very unlike a single human being, it has become a proverb that "corporations have no souls." Moreover, as corporations run most of the very large industries, they are always most prominent in the great labor struggles, and therefore many people have come to dislike them, and the tendency is to tax them unduly.

T. Is there another reason why they are overtaxed?

P. Yes. In order to limit their liability, they have to publish some of their accounts, so that people will know how far to trust them; and the tax-collectors are thus better able, as they are generally disposed, to tax them for all they are worth. They cannot do this as readily to private concerns that do not have to publish their affairs.

T. Is this unfriendly attitude toward corporations, for the public good?

P. Not as regards corporations conducted fairly, and those large enough to cheapen production through "the great industry" generally are. So far as they are unjustly interfered with, their ability to cheapen things is impaired.

T. Is there no danger in their being very large?

P. Yes, they are apt to become so great 249 (h). *Danger of* *Monopoly.* as to run into monopolies.

T. What do you mean by a monopoly?

P. The word comes from two Greek words meaning "one" and "to sell," and it means anything which there is only one owner to sell. He of course can ask what he pleases, and so long as people will buy, his price is not limited at all by the cost of production.

CHAPTER XII.

RIGHTS UNDER COMPETITION, MONOPOLY, AND INDUSTRIAL TRUSTS.

250. Rights of and to competition. *Teacher.* What's the objection to a monopoly?

Pupil. It deprives the public of its rights to Competition.

T. What are the rights to Competition?

P. There are two; perhaps I might call them the right *of* Competition, and the right *to* Competition. Each individual has the right of competition—the right of competing with other individuals; and the community has the right *to* competition—to the reasonable prices and improved qualities of goods and service that competition brings.

T. But under your first head—the right of individuals to compete—is that a right that all are eager to claim?

251. Hated by the lazy and stupid. *P.* No: lazy people don't want to compete, or rather don't want to have anybody compete with them; they hate the very name of competition, and want the state to try to abolish it, because it forces them to work harder; and incapable people hate it because it drives them to the wall.

T. But suppose they looked at the question as consumers?

P. If they were wise enough to do that, they would see the whole active and Able world competing to make things better and cheaper and more various for them.

T. Will you give me some illustrations of the benefits of competition?

P. Suppose, in a primitive community, milk is taken around in goat-skin bags. If somebody comes along with a tin can, everybody will get milk from him until the other dealers get tin cans. Then, suppose somebody else brings it nicely measured in bottles with spring stoppers, instead of slopping it into each customer's pitcher amid the dust and heat of the street; pretty soon everybody will take from the bottle-man until all dealers supply bottles. In this way competition will have supplied the community with good milk in neat bottles, instead of milk apt to sour from goat-skin bags. But if the early dealer had kept a monopoly, the people would still be getting it from goat-skins.

252. Benefits illustrated.

(a). In domestic convenience,

T. Can you carry your illustration a step farther?

P. Yes, in some parts of the country, the milkman sits in his cart and yells or rings a bell, for the customer to come out to him; in the other regions, where competition is lively, he jumps out himself and carries the milk in.

253 (b). in locomotion,

T. How is it in means of travel?

P. In travel, as in everything else, new methods are constantly driving out old. The railway competed with the turnpike road; steam, the cable car and the trolley are competing with the horse; and the bicycle with plain walking.

254 (c). in commercial traveling.

T. What appears to be the greatest revolution effected by competition in recent times?

P. Perhaps the system of commercial traveling. A generation ago every considerable dealer outside of the great cities had to go to them at least once or twice a year to find out what was going on in his line, and to buy a large stock of goods; now nearly everything is brought to him by samples.

T. How about the quality of his goods?

P. As the travelers are constantly coming to him, he need not carry nearly as large a stock of any particular thing, and can therefore have a variety vastly greater and much fresher, and up to the latest improvements.

T. How about his economies and morals ?

P. In old times when the country merchants went to the cities on their regular buying expeditions, they were very apt to get led astray, and leave a good deal of money that they brought home nothing to show for.

T. But under the new system, don't they go to the cities as often as they did before ?

P. That's hard to say, but they certainly don't stay as long at a time.

T. But doesn't the army of commercial travelers, with which competition has crowded the country, cost a great deal more than the old system of dealers going to the cities ?

P. No: not nearly as much in proportion to the amount of goods exchanged: the risk of unsalable stock is so much lessened, and the chance of getting the best and freshest thing for the money so much increased. And all this has made it possible to supply more things and newer kinds of things for the same money. That has made new manufacturing industries possible, and increased the demand for labor, and the supply of conveniences in very many ways.

T. How have commercial travelers improved traveling facilities in general ?

P. They enable the railroads to give better and wider service than they otherwise could, and they have also led to a great improvement in the country hotels. After the stage-coaches went out, and before the commercial travelers came in, the country hotels got into a very bad way.

T. What is the effect of competition on the steadiness of business ?

255 (d). In regulation of prices through Demand and Supply. *P.* It regulates prices, and makes their rise and fall so gradual that people can make some preparation for either.

T. How are the rise and fall made gradual ?

P. When goods begin to be abundant, sellers begin to compete by lowering prices, and when goods are becoming scarce, buyers begin to compete by offering higher prices.

T. Tell me, in more scientific terms, what regulates prices ?

P. Demand and supply.

T. When are prices steady ?

P. When the demand for goods is equal to carrying them off at the prices asked.

T. What is that equality technically called ?

P. The Equation of Demand and Supply.

T. Suppose the equation is disturbed by increase of supply ?

P. Competition in lowering prices increases demand until demand and supply are again equal.

T. Suppose the equation is disturbed by increase of demand ?

P. Competition bids up prices and chokes off demand until demand and supply are equal.

T. Is competition, then, a great benefit in keeping business active and men at work ?

P. That "Competition is the life of trade" is an old proverb.

256 (e). Minor exceptions. *T.* Is it fair to say that rise in prices is always started by the demand of competing buyers ?

P. It always is in the great auction exchanges for stocks, produce and real estate, where probably most of the world's business is done. Tho of course private dealers do not merely mark up prices of staples to follow the great exchanges, but mark them up also on other articles when they find their stocks running short.

257. Evils in competition. *T.* But after all, is not competition sometimes harmful ?

P. Every good thing can be carried to an extreme, or used in a harmful way; in fact, some people think that all evil tendencies are merely good ones misused.

T. Is driving out of business men who lack Ability, one of the evils of competition ?

258 (a). Suppressing incapacity not among them. *P.* That's no evil, even to the man himself: if an unable man tries to conduct business, he is always keeping his customers waiting, making mistakes, unable to furnish good goods,

or any goods at moderate prices (except as his bankrupt stock ultimately gets into the bargain-stores); and he is under constant temptation to cover up his incapacity by dishonesty. His custom goes, of course, to more Able men.

T. But is there no place in the world for a man, simply because Nature has not blessed him with business Ability? Some of the best of men have lacked it.

P. Certainly there's a place for him, under the guidance of the man who has Ability, and he's much better off there than in stumbling along by himself, if he only has the sense to know it; and the community is vastly better off for his being there.

T. Then how does the notion arise that competition is a cause of poverty?

259 (b). *Nor is poverty.* *P.* Every man who is not conducting business himself, and sees rich men conducting it, thinks that if he were conducting business, he would be rich too. Every mechanic in the shop blames competition for preventing his being boss; whereas if he were, in the vast majority of cases, he would soon be bankrupt and poorer than he is, and the rest of the men thrown out of employment. The minority who are really Able enough to be bosses, are not many of them prevented by competition from becoming bosses. They generally do it in good time.

T. But do you mean to say that competition is never wasteful?

260 (c). *But wastefulness is.* *P.* It very often is, and as long as there are foolish men, it very often will be: but as to its driving a man out of business, that's not usually because of waste (unless it's his own waste), but because another man can make a profit by supplying the community at rates lower than the first man is Able enough to.

T. But nevertheless, don't you know instances of competition carried to the point of waste on both sides?

P. Certainly: that happens where advertising or drumming (both excellent things within limits) is carried to excess, or when a man has or thinks he has more money than his competitor, and does business at a loss so as to

get the other's customers away, expecting to make up his losses after his competitor is driven out of business. In this way, the steamboats in the West and Southwest sometimes carried passengers for nothing and even threw in their meals.

T. But the public got the benefit of the competition, didn't it ?

261. Public seldom
gainer by wasteful
competition.

P. Only for a time. After one party was driven out, and the monopoly held by the other, the monopolist could put prices where he pleased.

T. Is such business really competition ?

P. No: it is really an effort to kill off competition. Legitimate competition is really economical.

T. But leaving out of consideration persons who are ruined by wasteful competition, if the public has already been accommodated at extra-low prices, how are they worse off if for a time they have to pay extra-high ones ?

P. They have to pay them long enough to make up for the waste, and pay a profit on it. Moreover, unsteady prices unsettle business: nobody knows what to count on; and prices lower than they ought to be, get people into wasteful ways that do not stop when prices get normal again.

T. Has there been any striking means of doing away with wasteful competition tried lately ?

P. Yes, many competing businesses have united, placing all their establishments under the control of a few men, to be managed together for the benefit of all.

262. Trusts.

T. What name is given to putting property into the hands of one party for the benefit of another ?

P. It is called making a trust.

T. Are there any other good consequences of combining business in such a way ?

P. A trust, if properly conducted, not only does away with wasteful competition, but it has more of the advantages of "the great industry" than smaller individual businesses could have. It's getting to be an old story that the large production is the cheap production.

T. How do the trusts save expenses ?

P. Partly by using fewer managers, clerks and build-
 ings, and less traveling and advertising.
 263 (a). *Their* Where the businesses to be united in the
economy. trust are conducted separately, many of these items are
 unnecessarily duplicated. The trusts are said to have
 dispensed with 150,000 commercial travelers from '97
 to '99, leaving these men to go into industries supply-
 ing new comforts and luxuries, or old ones cheaper.

T. Yes, but that economy is effected by driving a lot
 of people out of work. Is that a benefit ?

P. It certainly is to the consumer, if the trust gives him
 part of the saving, tho it is not at the moment a benefit
 to the people driven out of work. But new demands for
 labor are created by the money saved through cheap-
 ened production: therefore people thrown out of work
 to save that money will soon be at work again (208),
 and also benefiting, as consumers, by the cheapened
 production.

T. But what becomes of all the advantages those drum-
 mers brought the railroads and country hotels ? (254)

P. They will soon be drumming again for new benefits
 to the community,* or conferring them in other ways.

T. But what if trusts do away with wasteful competi-
 tion by crushing out establishments that do not join them ?

P. There are two sides to that question. Of course
 having so much capital, and being able to produce so
 low under the great industry, if it is their interest to keep
 prices low enough, the trusts can run destructive opposi-
 tion to individuals: but on the other hand, after they
 have driven off competition, they may get prices so high
 as to encourage individual concerns to enter the business.

T. As a matter of fact, have these considerations often
 kept the profits of monopolies within bounds ?

P. The weight of intelligent opinion is that but a
 small relative proportion of the great fortunes has been
 made in monopolized industries, but that most have

* The landlord of a favorite drummers' hotel told the author
 late in 1900 that he had not noticed any difference in the aggre-
 gate amount of commercial travel.

been made in industries open to anybody with the Ability to conduct them.

T. Do inordinate prices seem good policy in a trust ?

P. No; they are shortsighted for two reasons—first, the most profitable business is often done at prices low enough to enlarge custom; and second, the only policy that justifies the existence of a trust is the use of its great facilities to serve the public at prices that defy competition from smaller concerns.

T. But isn't that pretty hard on smaller concerns ?

P. They can join the trust, or go into some business to supply new conveniences or cheapen old ones. Where it is a question of the public being served well and cheaply, it will not do to be tender about the interests of an individual.

T. Do you mean from all this to intimate that in preventing wasteful competition between their members, and producing by cheap processes, the trusts are an un-mixed good ?

P. No: they are in danger of becoming monopolies, just as an individual competitor choking off another is; and moreover, if there is no competitor to force the trusts to keep low prices, they are sometimes unwise enough to keep all the economies of "the great industry" for their own benefit until they find that course suicidal.

T. But hasn't a man a right to set his own price on his own property ? If not, what becomes of property rights ? If one man or one corporation or one trust has wealth enough to drive out weak competitors and get hold of the entire supply of any commodity or facility, isn't it fair that people who want it should pay the holder's price ?

P. Perhaps they should if they let a monopoly get the control, but that's just what they shouldn't do.

T. I asked you a good many questions at once for the sake of giving point to the last one, and you answer that by a "perhaps." "Perhaps" you'd do better to tackle my first question. *Has* a man always a right to set his own price on his own property ?

P. No: a man having a monopoly of plenty of food has no right to demand a starving man's fortune for enough food to save him.

266. Property rights do not always include monopoly rights.

T. There is a limit, then, to property rights?

P. Of course. We have already agreed, more than once, that there's a limit to all rights—there is to everything we can conceive of, for that matter: the state has a right, whenever the greatest good of the greatest number requires it, to take a man's property or labor at a fair price, or even his life at no price at all, tho it usually pensions a dependent survivor.

T. Why, then, shouldn't the state take an unjust monopoly's goods by eminent domain, and sell them to the people at reasonable prices?

P. The principle is right, but that is too long a way around. It would be simpler for the state to compel the monopoly to sell at reasonable prices, or better still, wherever it can, to encourage competition.

267. State control.

T. Have any laws been enacted in this regard?

P. Yes, not only laws regulating prices of such monopolies as railroads, water companies, etc., but also two classes of what are generally called anti-trust laws—one class providing that persons conspiring to unduly raise the price of goods, shall be liable to the same penalties as persons conspiring to defraud; the other, that corporations so acting shall lose their charters, and trusts so acting shall be dissolved.

T. Have these laws accomplished much?

P. They're yet too new to show whether there's much good in them. So far, they have been found very hard to enforce: because it is very hard to get evidence that will fasten the guilt where it belongs.

T. Has the state any other right than those of self-defence and the greatest good of the greatest number, to regulate monopolies?

P. Yes: so far as monopolies are controlled, as they nearly all are, by corporations, the state has a right to regulate them because the corporations themselves are

made by the state. When the state confers on a corporation the privileges of limited liability, the right to sue and be sued as a unit, and the right of continuous association of property interests in spite of the death of a member, the state has a right, of course, to name the conditions on which it confers the benefits—the duties which must attach to the rights—and prominent among these conditions, of course, are defences against misuse of monopoly privileges.

268 (a). *By fixing prices.* T. Can you give an instance of the state making wise conditions?

P. Probably the most frequent is the regulation of railroad rates—street-car fares in cities, mileage rates on steam roads, and freight rates between points where there are not competing roads.

T. Isn't it wiser to force them to keep their prices down, by setting a limit to the profits they shall divide? An arbitrary price, you know, might be less than they could continue business at.

P. But the danger of limiting profits is that they would prefer to earn them by a small and easy business at high prices rather than a larger and more difficult business at low prices; whereas, if they're permitted to make all they can, they may often widen business by rates even lower than those which would give them the profit arbitrarily fixed for them. A road might make as much money running a few trains at a dollar a head, as by running more at seventy-five cents, and prefer the smaller trouble and wear of the few trains at a dollar. Yet it might make a great deal more money running still more trains at fifty cents, but be restrained because not permitted to earn more than it could at a dollar.

269 (b). *By eminent domain.* T. Can you give an instance of wise state interference with monopoly abuses, by direct exercise of eminent domain?

P. Yes. The neighborhood of Niagara Falls used to be one of the plague-spots of the earth—covered with unsightly and ill-arranged structures, and infested by extortionate hackmen and cheating fakirs of all sorts. The state took the land by eminent domain, made a

beautiful park of it, and has everything well managed at reasonable prices.

T. But, after all, are not such state interferences apt to become tyrannical?

P. Yes, they may be tyrannical, and foolish into the bargain. Corrupt politicians may interfere to extort blackmail, and at best the state can't know all sorts of business, and should be very slow to interfere with it.

T. Well, how about the effect of these great concerns on legislation? Can't they afford to bribe more than smaller private concerns could, and get all sorts of "protective" laws to shut off foreign competition, so that they can bleed the public all they please?

P. Yes, and nobody doubts that they do it; but they have not increased corruption, but simply raised the price of votes, and, with the aid of the bosses, organized dealing in them; but compared with the amount of business done, it's doubtful if there was not just as much corruption before, only at lower prices.

T. Don't they go for higher game, tho?

P. Yes, the sugar trust is generally believed to have bought three senators of the United States in the fifty-second Congress, and prevented the passage of a reformed tariff bill which that Congress was specially elected to pass.

T. But did not that Congress pass a reformed tariff bill?

P. A very lame and doubtful one, largely owing to the obstruction of the suspected senators. The reform didn't reach the sugar.

T. But can't we have the increased facilities brought us by the big industry, without corruption following on their heels?

P. Perhaps, if people can be brought to elect a higher type of legislators. But there has not yet appeared any shorter cut.

T. Couldn't we get rid of the corruption if the state itself ran all the industries? What do you think of Mr.

Bellamy's proposition to get rid of all the trusts by making the state itself a trust that shall include them all? Then there would be no one interested to buy votes.

P. Do you mean that it would be better if the politicians were running the industries themselves: so they could vote to favor their pets without being bought—so that instead of having the corruption funds of the corporations and trusts ladled out to them as now, they would have hold of the ladle themselves?

T. But then the politicians would be working the industries for the state, and not for themselves, wouldn't they?

P. We've seen enough of the way they are apt to "work for the state and not for themselves." Moreover, business will be managed much better if the manager is working for his own benefit, and according to his own ideas, than if he is working for the state, and according to *its* own ideas—even if there were any way of keeping the state's ideas fixed.

T. But the manager of a corporation or a trust is not working for himself, is he?

P. The chief manager generally owns a large share, but if his concern belonged to the government, he would not own a millionth part.

T. Well, then, what *can* we do about the corruption of legislatures by monopolies?

P. Do our best to see that only incorruptible men are elected to office, perfect our laws, and educate people so that there will be more chance of the corporations and trusts being managed by men who will develop their good side for the benefit of the community as well as of themselves.

T. But why should the state make, or even permit, corporations and trusts, when it at the same time has to make laws to protect people from them?

P. For the same reasons that it encourages the rearing of citizens, when it has to make laws to protect itself against bad ones. Corporations and trusts have their good sides just as people have.

T. Are there any influences that seem likely to secure the advantages and suppress the disadvantages of competition in the future ?

P. One of the most hopeful is the growing recognition of broad self-interest and of civic responsibility. Already there is here and there a man at the head of great combinations who, like Pullman or Rockefeller, amid all the errors of the struggle, shows some realization that the best profit lies in serving the public well and cheaply, and has some sense of duty to his fellow men.

T. Yet are there not some influences wider than the characters of men who are yet too few ?

P. Professor Cooley says* that competition grows with capital and industrial freedom, and that it declines as intelligence and morality on the part of the buyer grow.

T. The conditions of growth are plain, on reflection, but expand a little the reasons for decline.

P. Why, simply that when a man knows good from bad, and follows the good when he knows it, he'll make up his own mind, and it's a waste of effort to send a drummer or a tempting advertisement after him. Moreover, and doubly important, if he's an honest man in a position of trust, like that of a commissioner of public works or education, he is not going to choose subordinates or material on account of anybody's "pull."

* In his remarkable pamphlet on Competition published by the American Economic Association.

CHAPTER XIII.

RIGHTS IN NATURAL MONOPOLIES.

274. Some things
are inevitably mon-
opolies.

Teacher. But in spite of all we can do, is there not a class of monopolies that must in their very nature continue monopolies?

Pupil. Yes, a street railroad usually remains a monopoly because, in the nature of things, not more than one can ordinarily be laid in a street. It is generally the same with a city's water-supply and gas-supply, and even its sewerage, connections with which are actually sold in some places. Perhaps, too, it would not be straining language to say that in some industries the first factory built is a natural monopoly, because while there may be demand enough to support that one, even at a very great profit, there may not be demand enough to justify building another.

T. Are such city works and factories, the only things which are naturally monopolies?

P. No, nearly all roads, bridges and ferries are, and so are natural objects which can't be duplicated—such as extraordinary mines and springs, and picturesque works of Nature like Niagara and the Yellowstone.

T. Some people think there's a natural monopoly a great deal bigger than all the things you have named put together, can't you imagine what it is?

275 (a). But the earth
not one of them. *P.* The whole earth—as they think.

T. Well, is it a monopoly?

P. It's impossible to see why. Any one piece of land is a monopoly: but so is any one piece of pork, and the land in any single locality may be "cornered," as pork or

lumber or wool or anything else may; but land generally can't be a monopoly, as long as no one party owns it and people are competing with each other in selling it, any more than anything else that is generally dealt in can be a monopoly.

T. Yet are there people who think the land must be a monopoly?

P. Yes. There are thousands of people, and some of them very good people, who actually think that all the inequalities in the lot of man arise from land being a monopoly, and that the inequalities would be removed if people paid rent to the state instead of to landlords (80).

T. But to return to things which you say *are* natural monopolies: between two places there can be several railroads, why then is one apt to be a monopoly?

P. Because the first one laid out is apt to be on the best route, and there is seldom any other route good enough to compete with it.

T. Is there any other prominent reason?

P. Yes, the travel may be enough to pay enormous profits on one road, without being enough to justify building another.

T. Can a railroad be built without government authority?

P. No.

T. Why not? If people want to build a railroad, and have the money, why shouldn't they go on and build it and accommodate the public?

P. In the country, of course nobody can take land for a road without government authority (92), and in a city it would not do to have anybody who felt like it, take possession of a street for a railroad. Some streets would soon be so full of tracks as to be destroyed for other purposes, and few streets would be left free from them.

T. If the right to build a railroad, then, is valuable, ought not the city to be paid for the right by those who occupy its streets for the purpose?

276. Why Railroads are apt to be monopolies.

277. Why they need government authorization,

278 (a), and should pay for it.

P. Certainly: the right is really a lease of the streets, and generally a salable one.

279. So with other facilities. *T.* Are not the rights to supply light, water, etc., and to control most other such things, in the nature of monopolies?

P. Of course rights to use the streets for such purposes are virtually leases too.

T. By what general name are the rights to control these natural monopolies called?

P. Franchises.

T. Can't the community sell franchises to corporations or individuals?

P. Certainly.

T. Does it generally?

280. Those In America being generally grabbed by the politicians. *P.* No. In Europe, the Community generally either uses the franchises itself, or leases them at great advantage.

In America, until very lately, it has generally let the politicians and their friends make up private corporations and settle down on the franchises without any return whatever to the community.

T. But why is this permitted?

P. Because people are generally too lazy, or too engrossed in their own affairs, or too stupid, to take care of their public rights—because, in short, they lack political Ability—which of course includes political virtue, just as (despite a few conspicuous exceptions to the contrary) business Ability includes business virtue.

T. But even if the people had enough political virtue to look out for their own interests, would they be wise to sell the franchises?

P. If they had enough of political virtue (or Ability, if you prefer) to take care of their own interests, they could manage their franchises through their own officers. Yet it might be just as wise under any circumstances for them to sell rights to do part of their work, as it is for other corporations to do the same; for instance, the railroads often sell rights to run palace and dining cars, and to supply reading matter on trains.

T. Now when a community wishes to get a profit from its franchises, is it best to sell them outright once for all ?

P. No: it is better to lease them, and only for terms of years: because, as the city grows, the franchises become more fruitful.

T. Can you give an instance of the value of such rights ?

P. The city of Baltimore has unusually good parks, and unusually many of them, which are paid for and kept up by a portion of the receipts of the street railroads. Some other American cities are beginning to get revenues from their street railways, and most European cities which do not run their own, derive large revenues from the companies which lease the franchises.

T. Now let us look back of this little discussion of natural monopolies, and sum up in general terms, to refresh our memories a little and to see how far we have been justified in treating rights in natural monopolies as rights of property. What have we been principally concerned with so far in relation to property rights ?

P. Their creation by the development, through manufactures and transportation, of natural resources; and the determination of what shares of the result should go to the Laborer, the Capitalist and the Enterpriser.

T. Where does the landlord come in ?

P. He is one of the capitalists.

T. How came we to treat monopolies and trusts in these connections ?

P. They are aggregations of capital.

T. Even natural monopolies ?

P. Yes: it's more than a mere metaphor to regard them so. Railroads, city water-supplies, etc., are plainly so, but each of them is both an artificial and a natural monopoly; a mine is perhaps more distinctly a natural one. And yet as soon as any one of these natural monopolies, or even a natural curiosity or beauty attracting admission-fees, begins to pay income, it be-

281. Should not be sold outright.

282. How natural Monopolies become Personal Property.

comes capital, and therefore its shares become personal property.

T. We will consider these matters more at length when we come to Government's Promotion of Convenience. Now let us go on to the Law of Personal Property.

CHAPTER XIV.

THE LAW OF RIGHTS IN PERSONAL PROPERTY.

Teacher. We saw (99) that the ownership of personal property is generally transferred by mere delivery: now is it often registered, like that of land? (108, 117)

Pupil. No: in most cases the perishable and transferable nature of the property would make registry merely a nuisance; but its ownership is sometimes registered when it passes out of the owner's possession.

T. For instance?

284 (a). Personal property seldom registered. *P.* If you put goods in a warehouse or give them to an express or freight company, or leave money on deposit, the article is entered in a book and you get a receipt of some kind.

285 (b). Important kinds passed by endorsement. *T.* How about stocks and bonds?

P. Bonds often are registered at the company's office, and stocks always are, upon being issued, tho they may be endorsed in blank, and pass through many hands before being registered again.

T. What is "endorsed"?

P. It means literally "on-backed," and usually refers to writing one's name on the back of a paper entitling the writer to some sort of personal property. Endorsing is generally in token that the writer parts with the right to the value stated on the face of the paper, in favor of whoever may thereafter hold the paper, or of some person named in the endorsement.

T. If the endorsement is in favor of a particular person named, how can the latter pass the value on?

P. By himself writing a second endorsement.

T. What are the principal kinds of papers entitling somebody to receive value, by which the value is passed on through endorsement?

P. The most frequent are bank checks, then come promissory notes, stocks and bonds and warehouse receipts for many kinds of merchandise.

T. As a rule, is an endorser responsible that any later holder shall receive what is called for on the face of the paper?

P. Yes. In all but stocks and bonds. On them, however, an endorsement is merely an authorization to the company to register the certificate in a new name.

T. On what theory does an endorser ever become responsible?

P. On the theory that he has received an equivalent from the later holder, and therefore is responsible to him for the value for which that equivalent was given; the same theory follows each transfer of the document.

T. But in fact, does an endorser always receive an equivalent?

P. No: unless friendship or favor is to be so considered: for men often endorse checks and promissory notes and make themselves responsible for their payment, to enable their makers to use them where their credit would not otherwise enable them to.

T. Have you a right to take your property wherever you see it?

P. With three exceptions (1119), yes, if
286 (c). Can take one's own wherever found, and in some cases by force. I can do so without violence: otherwise the rule is about the same as in real estate.

T. If a robber has put your property in another person's house, can you break or fight your way to it?

P. No: I must not break in or fight.

T. Must you stand still and give him a chance to carry it to a place of concealment?

P. The law prefers that I should stand my chances

of preventing that in some other way, rather than that the peace should be disturbed.

T. Suppose somebody goes in for it, and has it outside of the house and in your presence, and refuses to give it up if you demand it?

P. If I am satisfied that he intends to steal it, it is the duty, even of the private citizen, to arrest anybody committing a crime before him.

T. Suppose he resists?

P. I am armed with the authority of the law and can use any force necessary.

T. But you could not use any force necessary to drive a man off from your land? (98)

P. His being there was not a crime. The citizen has the duty and the power to arrest only in cases of crime—such as murder, arson, burglary or theft.

T. What are these exceptions already alluded to where you cannot peaceably take your own property wherever you see it?

287 (d). *Ownership of some kinds can be lost without neglect.*

P. The exceptions are, in a sense, not exceptions, but rather instances (the only ones) where a thing may peacefully cease to be my property without my receiving an equivalent satisfactory to me, or at least (as in the case of taxes or eminent domain) one declared satisfactory by the law. The instances are of bank checks, promissory notes and bills of exchange. If theft or accident puts one of them in wrong hands, and they transfer it for good value to a holder innocent of any wrong or knowledge of wrong regarding it, the innocent holder can recover its value from all parties who would be liable if it had come to him regularly.

T. Isn't that rather hard on honest makers and endorsers of such paper, who lose it, or from whom it is stolen?

P. Yes, but it would be harder on the community if all business had to wait for the history of every piece of commercial paper to be investigated, as it has to wait for real-estate titles to be investigated. As a matter of fact, the easy transfer of rights in commercial paper

is seldom hard on anybody: for the result of the law is that people take such good care of their paper that it is seldom lost or stolen.

T. Is there a variety of "estates" in personal property as there is in land?

P. Of course it can be loaned or hired out in an infinite number of ways, but ownership of it is not considered as enduring enough to be popularly called an "estate."

288 (e). *Can be mortgaged without registry if in mortgagee's possession.*

T. Can't it be mortgaged?

P. Certainly. Such a mortgage is called a chattel mortgage, and unless the mortgagee takes possession, the mortgage, like a real-estate mortgage, is not good against creditors unless it is recorded.

T. What then is the difference between a chattel mortgage and a pledge?

289. *Pledges.* *P.* A pledge is always accompanied with possession of the chattel by the person making the loan. A chattel mortgage, if registered, need not be.

T. Are more agreements made regarding personal property than regarding land?

P. Certainly—millions of times as many: personal property is constantly traded, from the candy-shops to the stock-exchanges, by people who never have any land, and even professional dealers in land have to deal many times as often in personal property, in connection with the ordinary requirements of life.

T. How does that fact naturally affect our consideration of the laws regulating rights in personal property?

290. *Personal property the great field of contract.* *P.* The fact of course makes personal property the great field of Contract: so what time we can give to details of the law of personal property can best be used incidentally to our consideration of Contract.

T. Very well, we will then proceed at once to the consideration of Contract.

CHAPTER XV.

RIGHTS UNDER CONTRACT.

Contract as an Element in Civilization.

291. Difference between Contract rights and Property rights. *Teacher.* We have seen that men start with a right to appropriate things from Nature, to labor on them, and to keep the results. But rights to prevent a person taking or holding your property are merely rights to *prohibit* something. Now how can rights to *demand* something arise—how does another man get the right to demand any of your things or any of the labor that can produce them?

Pupil. Plainly only by giving or promising something in return.

T. And the modern state would protect each of you in his right to demand fulfilment from the other?

P. Certainly.

T. Now what are the rights arising from such agreements, technically called?

P. Rights under Contract.

T. What does Contract mean?

292. Contract, agreement, bargain. *P.* Pretty nearly the same thing as agreement. But etymologically, agreement means something to the satisfaction of both parties, while contract means merely *drawn together*, or perhaps bound together, as we often say when a bargain is under way, that the people are trying to “get together.”

T. Isn't there still a third word for that same thing?

P. Yes, bargain. The word "contract" having been more associated with law, has been kept more strictly to its early meaning; for instance, it seldom has anything to do with the profitableness of an agreement, while "bargain" is often used to mean merely a profitable transaction.

T. What does a good contract mean?

P. A good contract means rather one that legally binds the parties, while a good bargain means rather one that is profitable to one side or both. Yet each word is used in both senses. Bargain, tho, is never used in a general sense as one of the great foundation-stones of civilization, as we shall see that Contract is.

T. Don't people sometimes confuse the two in another sense?

P. People of low education or low morality or both, sometimes break contracts, on the ground that they don't yield good bargains.

T. Can a slave or serf make any contracts?

293. Contract possible only to the Free.

P. None to speak of.

T. Why?

P. Because he can't depend on keeping any; he can only do what his master says.

T. How does that affect his rights to property?

P. As whatever he does is under his master's orders, his master takes the profit or bears the loss.

T. If there is a loss—if crops turn out badly, for instance, what happens to the slave?

P. The master is supposed to take care of the slave under all circumstances.

T. Is this a good system?

P. Whether a thing is good or bad depends upon what you are comparing it with. Slavery would not be good in a civilized community, but savages are so much like children that, if left to themselves, they would be more apt to starve, and rob and kill each other, than if an Able man had absolute control to keep them in some sort of order and tell them what to do.

T. Were all men originally in this condition?

P. All civilized societies have had to pass through conditions of slavery, serfdom and feudalage.

T. But how were slaves ever to learn to take care of themselves?

P. The way to teach a man to take care of himself, is to leave him to take care of himself, just so far as safety permits.

T. Did all primitive societies at last learn to take care of themselves?

P. No: many stood still, like India and China, until they could stand no longer, and were overcome or died out.

T. Do you mean that they needed to progress in order that they might last?

P. Nothing higher than a vegetable can stand still and flourish—a society, a business, a human being, or even a beast, must progress—at least enough for exercise, or it will decay. It's like a person on a bicycle—he must move or come down.

T. How can a slave get ahead, when he can't make contracts, even for his own labor?

P. A man can't get ahead at all unless he can dispose of his own labor.

T. Is there anything else a man must be able to dispose of before he can get very far ahead?

P. Yes. In the present state of mankind, a man can't get ahead very far, in property at least, unless he can dispose of the labor of others.

T. Do you mean unless he can enslave others?

P. By no means: freemen coöperate with a man of true Ability to their own good, as well as to his.

T. What's the difference between him and the slaveholder?

P. The slaveholder, even tho he be incapable and unable or unwilling to take good care of his slaves, can still force them to work for him. The modern employer cannot force his laborer to work for him, because the modern laborer, especially with modern facilities of travel, can contract

294. Contract an
education in freedom.
only Able employers
can secure Labor.

P. The slaveholder, even tho he be incapable and unable or unwilling to take good care of his slaves, can still force them

where he pleases. He is not shut up on his master's place, as the churls and the villeins of England and the serfs of Russia and slaves of America were. The civilized laborer's power to contract, makes it necessary that his employer should treat him both well and ably. Therefore the modern employer must be really Able—capable of guiding his men well, and deserving his position, or competition will get his men away from him. And it is becoming more the case every day that employers have to compete with each other to get the best labor; and he who best guides his labor and cares for it so as to make it most vigorous, intelligent and cheerful, generally comes out ahead in the competition, and makes most money.

T. Now, can you give me the scientific names for the primitive state of affairs where most men were obliged to stand still just where they were born, and the civilized state where men can get ahead by contracting?

296. Status versus Contract. *P.* The stand-still condition is called *status* (the Latin word for standing). The condition where they can dispose of themselves and their property as they please, is called the condition of *Contract*. Wherever status, or "standing," is the condition, if a man is born a ruler, important or petty, he stays one; if he is born a serf or peasant, he stays one.

T. But aren't there plenty of examples of people changing their standing very much in quite primitive societies? How about Mahomet and Genghis Khan?

P. They were only an occasional man in a generation: there could be only one now and then, because they rose by controlling men, not by contracting with them. Now nearly every civilized man can contract.

T. Under what system of property-holding did Mahomet and Genghis Khan rise?

P. Communal (58), with some slavery and hardly any Contract.

297. Contract, Freedom and Private Property all evolve together. *T.* Why is there "hardly any Contract" under the communal system?

P. Because nobody has enough estate in the land to make much contracting with it, or its produce, possible.

T. What was the property-system under which Hildebrand and Rudolph of Hapsburg, for instance, rose?

P. Feudal (59), and some little contract.

T. Why was there more contract under the feudal system than under the communal?

P. Because the estates in land were much longer: at the outset of the system they were generally for life, and rapidly became transferable and even hereditary, tho always limited, of course, by the rights of the overlord.

T. And under what system did Lincoln and Garfield and Peabody and Peter Cooper rise?

P. The most advanced of all, of course—private ownership and contract everywhere.

T. Will you please rehearse what you have said about slavery, communism, feudalism and private ownership, with their various relations to contract?

P. Slavery: no Contract; Communism: hardly any; Feudalism: a little; Private Property: Contract everywhere.

T. But under feudalism, wasn't the relation of each man to his feudal superior, one of contract to furnish so much military or personal service; or later, a certain portion of the products of his land?

P. It was a contract about so far as a contract can be made by one side, and that side the stronger.

T. But, as men have risen under all systems, how can you say that there is a system where men stand still?

P. It has not been a matter of universal Status at any time, or of universal Contract. All I mean is that the more Status and the more Communism, the fewer men rise; the more Contract, and the more Private ownership, the more men rise. Under the amount of Contract in the United States, a thousand men—probably ten thousand, possibly a hundred thousand, improve their condition, where one does in Russia or India, or did in mediæval Europe or under the Turks or Tartars.

T. When do we find the first marked decrease of Status and increase of Contract?

P. In the decline of Feudalism, which is another name for Militarism, and in the increase of Private Property.

T. But has Militarism declined as civilization advanced? Europe is a camp to-day.

298. As they evolve, *P.* Nothing to what it was thirty years ago. From 1870 to the Spanish war in 1898, each nation was merely *playing* soldier to keep the others from attacking it. There was not a fight between civilized nations in all that period. Before, there had never been ten years without one.

T. Why did you say that the decline of Militarism was essential to doing away with Status?

299. Because it is a *P.* Because extreme militant conditions are necessarily conditions of status: people can simply command and obey: the enemy won't allow them any chance for divided policy or much chance to do business or accumulate property. Hence it is only in civilized society that the chief activities, instead of being warlike or militant, can be industrial. In a militant society, the men generally do what they are compelled to; in an industrial society, they do what they agree to: so they are making contracts all the time.

300. Fighting versus *T.* It begins to look like a question between producing. a fighting life and a trading life, doesn't it?

P. Yes, or say rather a *producing* life. With communal or feudal property, people never produced enough to get rich, and the only way people like those of India or Greece or Rome ever got rich, was by robbing somebody else.

T. As a fact, did they ever get rich?

P. No. A few people got rich and made a great show and did some fine work in architecture, literature and statesmanship; but the masses were slaves.

T. How is it among communal and feudal peoples to-day?

301 (a). Illustrated *P.* About the same. There has not been much change in Russia and India and China, in nations of to-day. for instance, except in name.

T. How about Japan?

P. Japan is the greatest instance the world ever saw of rapid growth in wealth, power and civilization, and

it mainly resulted from changing communal and feudal property into private property more rapidly than ever before—changing a general condition of status into one of contract.

T. Yes, but how about Japan as a military power? In her case, private property and contract don't seem to have depended on the downfall of militarism.

P. But they did. In the barbarous and feudal sense of every man being a fighter and thinking of little but fighting, militarism has gone. The Japanese gentleman does not now carry a sword much oftener than the English gentleman, and in Japan people generally are now people of peace, and fighting is as much a matter of special profession as among us.

T. Why did you say that the spread of the institution of private property, as distinct from communal property (58) or feudal property (59), is necessary to change a condition of status into one of contract?

302. Why Private Property is essential to advance beyond status.

P. Because to do much contracting, a man must have property of his very own.

T. But even if the community or the overlord owns all the real estate, there is still personal property to contract with.

P. Not much. No communal or feudal people ever got much personal property yet, unless by pillage.

T. But is it important that a nation should be rich?

P. Wealth is not civilization, but there never has been any broad and high civilization without wealth. The boasted poverty of Sparta, for instance, was accompanied by virtual slavery of every man to the state, and by a general belief that skill in theft was a virtue.

T. Then if wealth depends on manufacturing and trading, aren't you making out that all civilization rests on people trading freely with each other?

303. Civilization and trade go together.

P. Yes, except the sort of civilization built on pillage and slavery, and that sort is narrow and perishing. There never has been very high civilization enjoyed by *the general community*, without a great deal of trading; and the higher the civilization, the

more the trading. Then comes in the fact that there never has been much trading without the wide prevalence of the institutions of private property and contract, and there is no reason in sight to believe that there ever will be.

T. Your idea of civilization, then, is successful trading and a great deal of it?

P. Yes: a producing, trading, contracting form of civilization is as much needed to produce from the ranks of the common people a statesman like Lincoln, as to produce a merchant like Peter Cooper.

304. Breaking Con- *T.* What, then, is the relation to civili-
tracts and advoca- zation of the man who breaks a contract?
ting Socialism. *P.* He is doing his mean little share to-

ward bringing the world back to the days of *status*.

T. What is the relation to civilization of a man who advocates socialism?

P. He is trying to put the state in the place of the slaveholder, and so to lessen the amount of contract, and to make government command what people shall do, instead of leaving them to contract to do what they please: thus he too would get us back to *status*.

CHAPTER XVI.

THE GENERAL LAW OF RIGHTS UNDER CONTRACT.

Teacher. Now let us get to the details of contract. Courts do not want to use their time without reason—when, for instance, somebody claims that there was a contract when really there was none at all: so by what test have the courts decided to determine, when parties dispute, whether there really was a contract between them?

305. Essentials of a Contract.

Pupil. To be a contract, there must be an offer by one side, an acceptance by the other and a reasonable consideration why the offer should be made and accepted.

T. What categories are all such considerations found to be included under?

P. Something to be given, something to be done or refrained from, and natural love and affection.

T. How did the Romans boil it down?

P. They put it all (except natural love and affection) in four cases—I give to get you to give, I act to get you to give, I give to get you to act, and I act to get you to act.*

T. But is the whole subject really covered by something given or to be given, or something done or to be done?

P. No, it may be something *not* to be done, or, as I said, something to be refrained from. A has a right to do something, B offers him something not to, A agrees. Now A does not agree either to give or do, but merely to refrain, yet he binds B to give or do what he offered as an inducement for the refraining.

* *Do ut des, do ut facias, facio ut des, facio ut facias.*

T. The Romans' pat way of putting it, does not, then, cover the idea of refraining being a "consideration"?

P. It does if you take "act" in the broad sense of a course of conduct. "By a man's acts shall he be judged"—"acts" there evidently includes temperance and self-restraint—refraining from certain acts, as much as doing certain others.

306. Illustrations. *T.* Will you illustrate each kind of contract?

P. A offers B a dollar for a plant; each article is given that the other may be given. This is Roman case I. A offers B a dollar to do a day's work. This covers Roman case II. A offers B to do a day's work for a dollar. This is Roman case III. And A offers B to do a day's work if B will take him for a drive on Sunday. This is Roman case IV.

T. Give an illustration of the case the Roman summary leaves out—where the consideration is refraining from doing something.

P. A has a lot next to B's, and proposes to build a wall that will shut out light and air from B's house; B offers him a thousand dollars to refrain from doing it: A refrains: B is bound to pay the money.

T. But is it right to shut light and air out of your neighbor's house?

P. It may be more right than it would be to keep your own wife and children in rooms too small for them, or to have noise or anything else from your neighbor's windows disturbing them.

307. Natural Love and Affection. *T.* Give an illustration of a contract where the consideration is natural love and affection.

P. A father promises his son a piece of property.

T. But does the law enforce mere promises?

P. It will enforce this promise, because it holds the natural love and affection to be a consideration, which makes the promise a contract.

T. But isn't that consideration for a contract queer?

P. Yes, because if a father agrees to do something for a son because he loves him so much, and then refuses to

do it, he simply proves that he did not love him that much—in other words, that there was no consideration; all of which seems to show that where natural love and affection is alleged to be the consideration, the contract may be a very weak one; and that where natural love and affection is strong enough to make a contract strong, there must be love enough to make a contract unnecessary.

T. Can't you give a more logical view than the one that the father does it because of his own love for his child?

P. A much more reasonable view of the logical aspect of the case is that the father gives the property *because the child gives him* the "natural love and affection."

T. But is there not good reason, after all, why courts should enforce such contracts, even if the consideration is held to be natural love and affection entertained by the person making the promise?

P. Yes: if a man fails in business or dies, those who take charge of his affairs must carry out his contracts as far as they can, while his mere promises, where there is no consideration, they must not. So it is more merciful to his unfortunate family to put his promises to them on as good a footing as his business contracts.

T. But do courts do this in all cases, whether the promisor be living or dead?

P. The courts will generally enforce them against the promisor, but unless there is also a "good and valuable" consideration, they are apt to look with suspicion on contracts based on "natural love and affection," and to set them aside if they have any strong indication of wronging creditors or later purchasers for valuable consideration.

308. Promises and Contracts.

T. But entirely outside of any "consideration" whatever, ought not any promise to be sacred, even where there is no consideration to make it a contract?

P. A promise ought to be as binding as a contract, in honor: because there should be no honor less than perfect honor, but it is not as binding in law.

T. Why?

P. For many reasons, law cannot deal with so delicate a thing as honor. Justice is as high as law can go.

T. You spoke (285) of endorsements being made without consideration, simply from friendship or favor. Now will the law enforce them?

P. The question of course can't come up regarding the person originally responsible on the paper: for the endorsement is simply an obligation to pay third parties if the principal does not. If those third parties are innocent holders for value paid, the law enforces the endorsement.

T. But suppose the third party—a bank, for instance, knows that this endorsement is merely for accommodation, then it is not an “innocent third party's”: will it take the paper?

P. Yes: banks take some accommodation paper, just as they loan money at the market rate if it is higher than the legal rate, because they depend upon people to carry out their contracts without appealing to defects in the law.

T. Suppose paper has been forged, does its possession for value by an innocent third party, make it good?

P. Of course not, unless the person whose name is forged can be held for some gross carelessness: because nobody ever undertook to pay it.

T. Please show how justice requires enforcement of contracts, and not of promises.

P. Because breaking a promise takes nothing from the other man, while breaking a contract takes from him whatever he does on his side, or the thought and trouble and arrangements he may have been put to in making the contract, and toward carrying it out.

T. Suppose a man has promised one man, and is under contract to another, and becomes unable to satisfy both?

P. If A is under promise to B and under contract to C, and then fails or dies, so that both cannot be satisfied, C, who has parted with some consideration, would suffer more than B, who has parted with nothing: therefore the law does what it can to protect the contract, while it pays no attention to the promise.

T. But where natural love and affection is the consideration, C has not parted with anything.

P. And yet the law treats the case as if he had, because there would be so much hardship if the law should require the representatives of bankrupts or deceased persons to do as much to keep all promises alleged (perhaps falsely) by strangers, as to keep promises to relatives.

T. You say “relatives.” Don’t people often love outsiders more than relatives?

P. Yes, but the law can’t go into as fine points as that: proof is too difficult—*natural* love and affection—that is such as it is natural, under ordinary circumstances, for all men to have, is as much as the law can attempt to take into account.

T. But isn’t it something of a fiction to make “natural love and affection” a “consideration,” like money, or goods, or services, or self-restraint?

P. Yes, that’s exactly what it is, and many of the greatest improvements in the law have been made by just such fictions (319).

T. Can you give me any other illustration of legal fiction?

P. Where people are damaged by others in their property and reputation, and come into court for redress, the principle of the law is that they must not only prove that the acts of which they complain really took place, but they must prove that the acts were damaging, and just how many dollars’ worth. Now if a woman proves that she has been slandered in the dearest part of her reputation, the law brings in a fiction that she *has* been damaged by the slander, whether it fell on willing ears or not, and does not require her to *prove* that she was damaged.

T. But she may really have been, why is it a fiction then?

P. In this sense, fiction is a technical term meaning a general principle, regardless of whether it is true in any one case or not.

T. But are not fictions apt to do harm everywhere in life?

P. It is a maxim of the law that fictions must never work injustice—that is to say: that when a judge finds that the fiction usual in somewhat similar cases, plainly does not *justly* apply to the case in hand, he must not decide as if it did.

310. Mutuality in contracts.

T. How about mutuality in contracts?

P. It always “takes two to make a bargain.” Contracts must always be mutual,—the understanding must be mutual, the consideration must be mutual, and the obligation must be mutual.

T. Illustrate the first point, please.

P. The understanding must be mutual. If you say that to-morrow you will lend me a gun now in the hands of a friend, if I will bring a written abstract of ten pages of Spencer, and I agree to do it supposing you mean Spenser the poet, while you really mean Spencer the philosopher, there is no contract between us, for our understanding is not mutual.

T. Suppose either of us finds out the misunderstanding, what should he do?

P. Make a reasonable effort to let the other know that there is no contract, so that you may not lose the trouble of getting the gun, or I of writing the abstract, in case the abstract of the poetry should not be a satisfactory substitute for the abstract of the philosophy.

T. Should anything more be done?

P. Yes: it would be reasonable to see if we could make the contract that one of us intended—either yours for the abstract of the philosopher; or, if I would not agree to that, whether you would be willing to make the contract I understood—regarding the abstract of the poet.

T. Now explain the second point necessary to the mutuality of a contract.

P. There must be mutuality of consideration—that is to say, as said before, *each* side must undertake to give or do or not do something in consideration of the *other* side undertaking to give or do or not do something.

T. Suppose a man renders you a service—such as help-

ing your horse and wagon out of a ditch, without your asking him to, or agreeing to do or give anything in return. Can he make you pay?

P. No: tho it seems hard not to pay for valuable volunteer services, and tho any decent man would do it. Yet to admit the principle that volunteer services must be paid for, would overwhelm the world with superfluous and worthless pretexts of service—like, for instance, needless opening of carriage doors, and sweeping of crossings already clean.

T. Suppose I tell you I will do something if you will do something else—that I will cook the breakfast if you will get up and light the fire. Are we under contract?

P. No: unless I say I will light the fire, or straight-way do it and let you know that I have done it.

T. Suppose I tell you I will do something, and you therefore expect that I will, have I not contracted to do it?

P. No: you have merely promised, and, in law, a contract is more binding than a promise (as we have seen), or even than an oath.

311. Law and Religion.

T. Why than an oath?

P. Because an oath is a matter of religion. The law deals only with justice. In modern times people know that it is as much a mistake for law to try to handle religion as to handle honor.

T. Don't witnesses have to swear on the Bible?

P. No, they can merely "affirm," if they prefer.

T. In honor, should not one party to a contract complete his side of the contract all the same, even if the other does not? He has promised.

P. No: the third point essential to the mutuality of a contract is that the obligation is mutual. If one side fails in his obligation, that releases the other.

312. Justice and Honor.

T. Does it in honor?

P. Yes, the dishonorable have no claims upon honor.

T. But isn't that reducing honor to the level of justice?

P. No: to permit the dishonorable to make claims

upon honor, would be to reduce honor to *injustice*. Honor can never be contrary to justice.

T. If, then, the dishonorable man has no claims, would you have a right to deceive or rob him?

P. Tho the dishonorable are not entitled to anything beyond justice, they are still entitled to justice.

T. Suppose one man agrees to pay another if he will kill a man or set a house on fire, and the other agrees. Is there not a contract?

313. Contracts the law will not enforce.
(a). For wrong-doing.

P. Yes, but the law will not enforce it.

T. Why?

P. It is against public policy: the legal maxim is: "Men may contract, but not to do wrong."

T. But suppose one party risked his life and liberty to commit murder or arson, would it not be doubly contemptible for the man who hired him not to pay him?

P. As there is no wrong in the mere payment of money, honor might require the payment of even the wages of crime, but the law would not enforce it.

T. Has a bet all the characteristics of a contract?

P. Yes, but the law will not enforce it, because betting adds nothing to the wealth of the community, as a contract enforced at the expense of the community ought to; and because the habit leads a man to laziness and improvidence.

T. Now look a moment at the mutuality of bets: are they in the long run so nearly an even thing that they can claim enforcement even on the ground of fairness?

P. No: in the long run, those who lose must suffer more than those who gain enjoy. In the long run, of course, bettors' fortunes must average the same. Now assume that average to be any sum you please—say \$10,000. Then, as President Hadley * points out, a man who loses \$5000 will lose what his family has come to regard as essential comfort, and will suffer seriously, while the man who wins will not receive anything that

his habits require, but a mere superfluity that he will be apt to waste as gamblers almost always do. In fact, often so unbalanced are the two sides that loss is suicide, and gain dissipation—evil both ways; and seldom, if ever, any real good either way.

T. Suppose one party to an alleged contract agrees to do something impossible—to drain the ocean or move Mount Washington, is it a contract so that he is liable in damages if he fails?

P. No: agreement to do an impossibility is no consideration.

T. Suppose he agrees to do a reasonable or proper thing, and fails because of accident—sickness or a delayed train, must he pay damages?

P. Yes: it is his misfortune, not that of the other party.

T. But can't he guard against accidents in his agreement?

P. Certainly, in any way that the parties agree. Carriers of goods, for instance, generally guard against "the Acts of God and the Public Enemy."

315 (c). "*The Act of God or the Public Enemy.*"

T. What are they?

P. Any convulsion of nature like storm or flood or earthquakes, or probably a sickness not brought on by a man's own fault.

T. That's "the act of God." Now what would be the act of the "public enemy"?

P. That of any foreign force with which we might be at war, or any native mob or insurrection.

T. Suppose a man agrees to do all the work he can possibly do, for less than will keep him alive. Should he go on until he dies?

P. No: it was a promise to commit suicide: that is not legal: so there is no contract.

316. Law imposes self-preservation.

T. Should he go on and take his employer's money until he can find another place, and then leave his employer in the lurch?

P. As there is no contract, that is not a question of

contract. Do you want me to go into the question of honor?

T. No: the case was put merely to help define the boundaries of the subject. We will try another regarding doubtful contracts. Suppose a man agrees to work for enough to keep him alive, but less than his production. Is it a contract?

P. Yes: the law does not assume it to be either illegal or immoral to make a bad bargain, but only foolish; and the law cannot attempt to cure people of folly, or guard them against the consequences of it.

T. Can people get into contracts without knowing it?

P. Yes, just as they can get into other scrapes, through ignorance or stupidity.

T. But how does that agree with your statement that there must be a mutual understanding?

P. In some cases the law *assumes* that there is, and won't listen to any evidence to the contrary.

T. Illustrate, please.

P. If a servant or mechanic or clerk, is hired for any period—say a week or a month, and continues on without either side saying anything, the law assumes a contract for another period of the same length. So if a house is hired for a period so brief that a written contract is not necessary (101).

T. Does the law imply any other condition in contracts for services, besides those of continuance?

P. Yes, that any person employed to do any service shall receive "what he has deserved." *

T. Isn't there another contract always implied—regarding service?

P. Yes, that it shall be performed with due skill and faithfulness. Otherwise servants can't get their wages, and must pay any damages caused by ignorance and carelessness.

T. How about money in certain cases where there is no specified understanding?

* *Quantum meruit.*

P. It is to be paid back (on demand unless specified) in any of three cases—when borrowed from another; when spent, either with one's consent or in an emergency, for one's benefit by another; or received from any source in behalf of another.

T. How about any articles having value ?

P. If one takes them, and nothing is said about price, one must pay "what it was worth,"* and the seller cannot recover a price beyond that.

T. If merchants keep an open account, what contract is implied regarding payment ?

P. That either will pay in case the balance is against him, whenever it is struck at the customary time.

T. On what basis does the law assume these contracts ?

P. "The greatest good of the greatest number," of course. They exist only by approval of long experience.

T. Does the law make a distinction between these informal contracts and formal ones ?

P. Yes, it is sometimes hard to tell whether there is a contract or what the law calls an estoppel, that is, whether one side or both are not in a position where they are *stopped* (or "estopped," as the lawyers say) *from denying* a contract, tho none may have been formally entered into. For instance, in some cases of renting and employing, if neither party had said anything until after a second term had been entered upon, a court might hold that both were estopped from denying the existence of a contract, and would have to act just as if there were one.

T. Do these matters of assumed contracts and of estoppel remind you of a general peculiarity of the law that at first seemed to us very queer ?

P. Why yes. A presumed contract or an estoppel, seems very closely related to a fiction (309).

T. You say that "in some cases . . . a court might hold" that there was an estoppel. Aren't there exact rules ?

* *Quantum valebat.*

P. Yes, a great many; but circumstances vary so much that it is hard to tell before a case comes to trial, whether the rules are all going to fit it.

T. Do people often get into positions where they are estopped from denying responsibilities that they did not really intend to undertake?

P. Careless people are apt to, and also the people who haunt the borderland between carelessness and fraud.

T. Do carelessness and fraud come pretty close to each other?

320. Carelessness
and Fraud. *P.* Yes, because one who is careless about what he does, is very apt to become careless about what he says; and as careless people are constantly getting into scrapes, they are more apt than careful people to try to lie out of scrapes.

T. Can you quote a legal maxim that covers most cases where a man can properly be estopped from denying an obligation?

P. "No man can take advantage of his own wrong," and carelessness is a wrong.

T. Speaking of fraud, do some authorities claim that there is an implied contract regarding it?

P. Yes—that it is an implied part of every contract that there shall be no fraud. But that seems drawing it unnecessarily fine. The matter seems covered by the general principle of the law—to enforce no contract where there is fraud, and always to give damages against fraud.

T. But what is fraud?

321. Fraud never
defined. *P.* A definition of fraud is just what the law is very careful not to give, because human wisdom could not frame a definition broad enough to cover all possible cases of fraud, any more than all possible cases of any other kind; and even if it could cover all cases of fraud heretofore known, the ingenuity of the wicked would invent new cases not covered by the definition, and so escape.

T. But how is fraud proven, if there is no definition?

P. The court has to determine each case. A fairly intelligent court can follow the serpent's track more flexibly than a rigid definition could.

T. Does any transaction, based on contract or not, stand after it is found to be fraudulent ?

322. Statutes of Limitations again. *P.* Not if suit to set it aside is brought within a reasonable time of the fraud being discovered (in most of our states, six years).

T. Why is there limit to the time ?

P. The statutes of limitations (110) were passed largely to protect innocent persons. A long time after a piece of wrong-doing, it would be very easy to black-mail, for it would be hard to refute manufactured evidence.

T. Is there no other reason ?

P. Yes. After many years, when the person who perpetrated the fraud might be dead, it would hardly be fair to have somebody coming down on his heirs.

T. Is fraud the only condition that will vitiate a contract otherwise good ?

323. Force vitiates contract. *P.* No: an assent obtained by force or threat is no more valid than one obtained by fraud.

T. Of course fraud and crime take up a great deal of time of the courts, and of course the courts cost the taxpayers a great deal of money. If everybody were honest, couldn't we get along without courts ?

324. Courts needed against Ignorance as much as against Fraud. *P.* No, unless everybody were wise too.

T. Why ?

P. Because various sorts of unwisdom often tangle up people's rights so that they have to go into court to find out what they are.

T. Give me some illustration.

325 (a). Illustrated in confusion, construction and friendly suits. *P.* Take a case of what is called in law "confusion" of one person's materials with another person's labor—a man building a house for another, or a woman making an expensive frock, may get it all wrong and spoil a lot of good material, and yet suppose that it was being done right, perhaps because the owner of the materials may have failed to give clear directions. Again, intricate questions constantly arise over the meaning and effect of old contracts, or of provisions of wills, as well as of statutes

passed by legislative bodies; and as somebody must put the right construction on them, they are determined by the courts. Honest people are getting into disputes over such matters all the time, and many suits are, even in fact as in name, "friendly"—simply to get a matter settled in one way or the other, when the parties don't care which way.

T. Why don't they toss up?

P. Such cases are perhaps most frequent when people are acting for others—executors for estates, guardians for minors, trustees for corporations, and they must be sure to act legally, so they need an authoritative decree.

T. Yet to return to a subject touched upon some time ago (205-7): if everybody were honest, wouldn't much of the cost of the courts be saved?

P. Undoubtedly.

T. Can you tell me any other waste that could be saved if everybody were honest?

P. A large part of the police and military forces, and all the expenses of jails, reformatories and prisons.

T. Are all contracts made by people face to face?

P. No: many are made by mail, telegraph, and even telephone.

T. Is a man making an offer in a letter, bound by it until he gets an answer, or can he revoke it at any time before that?

P. He must revoke before the other party has posted his letter of acceptance.

T. Can the receiver revoke—by special messenger or telegram, between posting his letter and the receipt of it by the man who made the offer?

P. Most judges have decided that he cannot, but there have not been cases enough tried since the telegraph came into general use, for the subject to have been so thoroughly argued that all judges are now agreed.

T. What makes it seem unfair that he should revoke before his acceptance is received?

P. As the offerer has no privilege of revoking after

the letter of acceptance is posted, the acceptor should have none.

T. But the offerer has a privilege of revoking until *his* letter is *received* : why should not the acceptor have the same privilege ?

P. Because, for many reasons, the general principle of law is that a contract is made when both parties consent to the same thing. It is of course important to fix the time of this consent. A man may write a letter without being at all sure that he will post it, but posting it is the last thing he can do with it, and when he does that, it is reasonable to conclude that his mind is then made up, and consequently, that at that instant the parties are agreed, hence that the contract is made, and therefore that neither can revoke.

328. The law is an evolution.

T. Does this view seem so free from doubt that it ought to be finally considered as the law ?

P. There is certainly room for a great deal more argument, as is shown by the fact that judges are not yet absolutely agreed.

T. Has that probably at some time been the situation of most questions that are now clearly settled ?

P. Undoubtedly. Nearly all the matters that seem very simple ones to us, were by no means as simple to our ancestors.

T. Can you give me some illustrations ?

P. Why, take as simple a thing as regard for human life. When a sovereign kills a subject who displeases him, our ancestors, even as late as Henry VIII., yes, as late as James II., would have differed as to whether it was a legal execution or a murder. But now, if our President or one of our governors were to deliberately kill a man, it would be a murder.

T. How about the sheriff who hangs or electrocides a man nowadays ?

P. A great many people think that any voluntary killing of a human being, except in defence of one's self or another, is wrong, and will some day be against the law.

CHAPTER XVII.

LAW OF CONTRACTS CONCERNING PERSONAL PROPERTY.

Teacher. So much for the general principles of Contract, not to mention our last few words on the uncertainty and evolution of law—a topic to which we will have to revert more than once. Now let us examine into some of the specific laws of different kinds of contracts, beginning with such an everyday matter as selling and delivering property. It's not always as simple as we're apt to think. Suppose I have a horse and want you to buy him. You say you'll give me \$100 for him and will bring it next day, and I say: "All right, I'll send him to you," and we separate. Suppose I change my mind. Can you oblige me to sell him?

329. Sale and Delivery, (a). as generally affected by the Statute of Frauds, *Pupil.* No: under the Statute of Frauds (101) a contract for over \$50 (later legislation varies it in the different states from \$30 to \$200) must be put in writing, at least unless there was delivery of money or something else from one side to the other, or some other part performance. Here neither horse nor money was delivered.

T. Are the only contracts that the law requires to be written or partly performed, those involving over \$50, or what not?

P. No, the same is true of all those relating to real estate (except a lease for a year or less), or to becoming responsible for somebody else, or making a trustee personally responsible for the benefit of a trust estate (374), or to something to be done more than a year afterwards, or where the consideration on either or both sides is a promise to marry.

T. Why does the law require these formalities?

P. The obligation of Contract is so great, and the necessity of performing contracts and of the law's enforcing them, so important, that it has been found wise to make people cautious in entering into contracts, and to guard people from getting into them too easily. Moreover, where contracts are specially important or peculiar, the law wants better evidence of their existence and nature, than mere memory of spoken words.

330 (b). *by Part Payment.*

T. Suppose you had given me \$5 on account of the horse?

P. He would then be under contract of sale, the \$5 being consideration to bind that contract. For personal property, part payment will do in the absence of writing.

T. Could I sell him to anybody but you, and give you back your \$5?

P. No.

T. Suppose the matter in hand, instead of a horse, were a thousand bushels of oats which we had agreed upon a sale of, and you had paid me for only a bushel?

P. Our contract would be good for all.

T. Suppose you had paid for none, but I had put a bushel in your buggy?

P. Part delivery is as good as part payment.

T. But coming back to the horse, suppose I've been too good-natured, and endorsed a friend's note (285), and find on my way home that the sheriff wants to sell that horse to pay the note. Is he still my horse?

P. Yes, he is yours until I pay for him entirely, or you deliver him.

T. But would the sheriff have the right to take him in spite of your right to complete the contract and buy him?

331 (c). *Prior Lien.* *P.* Yes, because the lien of the holder of the note was earlier than mine.

T. What could you do?

P. I would have a right to get back the \$5 I had given you.

T. Suppose you had paid me \$99?

P. He would still be your horse till I paid you the other dollar. It would still be only a contract of sale.

T. Then what sort of business is it before you get goods, to pay much on account if you can't pay all?

P. Poor business, if the person you're dealing with is not perfectly reliable: for you get nothing, and your part payment is at risk until the payment is completed or the goods delivered.

T. You used the word "lien" back there, what does it mean in law?

P. A right to sell property to recover some claims against it. Next to mortgages and judgments, the most frequent liens are those of mechanics against things—especially houses, that they have made or repaired.

T. Now suppose you had paid me the \$100?

332. Possession and ownership. *P.* The moment you received it, the horse would be my property, even tho he remained in your possession.

T. Suppose he burned up in the stable before I had time to deliver him, could I collect insurance on him?

P. Policies generally cover "goods sold and not delivered," but if I had paid, and you should collect insurance, you would have to pay it to me.

T. If he didn't burn, couldn't the sheriff, under our previous case, go to my stable and take him?

P. Certainly not: he wouldn't have any business with my property, even if it were in your possession.

T. But suppose I had paid some bills with the \$100 on the way home, and the sheriff had said: "Well, if you've just sold this horse for \$100, show me the money: I'll take that," and upon my failing to show it, he had said that he didn't believe I'd sold the horse at all, and he had taken him and sold him. Would he still be your horse?

P. Yes.

T. Would you have a right to take him wherever you find him?

P. Yes.

T. To take him by force?

P. No: as already said, no man can legally use force, except in defence: he must appeal to the law.

333. Owner must not secure possession by force.

T. Could you enter another man's stable to get your horse?

P. Yes, but only without force. If force is used, it must be by due process of law.

T. Suppose I hadn't paid the bills with the hundred dollars, and when you sent for the horse and found him gone, you were to ask for the hundred dollars back, would the law give it to you?

P. Perhaps *you* ought to, as you would have got me into the scrape, but the law would not. I can try to get my horse, but it's absurd to try to get your money. It's your hundred dollars, and it was my horse that the sheriff took.

334. Delivery and acceptance complete ownership.

T. Suppose I had had time to send him to your stables before I saw the sheriff, tho you had not paid me?

P. He would have been my horse and you would have had a good claim against me for \$100.

335 (a). Delivery to agent or carrier good.

T. Suppose I had given him, on the road, to your servant or any other agent of yours, before you paid for him?

P. He would have been my horse.

T. Suppose I had started him toward your stable by my servant, and the sheriff had met him?

P. He would still have been your horse.

T. In what ways, then, have we seen that he could become yours?

P. By my paying for him, or your delivering him on my premises, or other premises named by me, or delivering him to me or to a person properly acting for me.

T. Suppose I were shipping goods: when would they be yours?

P. Upon my paying for them, or upon delivery to a carrier named by me, or to any common or public carrier unless I had told you to select a different one.

T. But how could the goods be yours when I hadn't got the money?

P. In place of them you would have a claim on me. You shouldn't deliver them unless you think the claim is practically as good as the money.

T. Suppose you named one carrier and I delivered them to another ?

P. They would be yours until I received them, unless it was impossible to deliver them to my carrier, and you had used proper diligence to get as good a one as possible in his place.

T. Would you be bound to receive them ?

P. Not if they had been unreasonably delayed or damaged or overcharged for freight.

T. Would you be bound to pay the charges of a carrier you did not select ?

P. Yes, unless excessive; then I would have my choice of refusing the goods or of claiming the excessive charges from you.

T. Well, suppose you had paid for your horse, but I didn't have time to make a good delivery. As the sheriff has taken him, how are you going to get him ?

P. The law would give him to me wherever he is. The sheriff can only sell what title you had in him, and you had none.

T. But wouldn't that be hard on the man who had bought him from the sheriff ?

P. He would have a right to get back the money he had paid the sheriff.

T. Suppose you had not seen the horse, but had said: " I like your description so well that if he comes up to it, I'll take him " ?

P. He could not be mine till I had accepted him.

T. Not if my groom delivered him, and your groom accepted him ?

P. Not unless I had given my groom special authority to judge him.

T. Suppose after hearing my description, you had said: " All right, I'll take him " ?

P. Then I would have had to keep him unless I was ready to say the description had not been just.

T. Suppose you had said: " I'm going away, but I'll

336. No one can sell more title than he has.

337. Conditional sale. Option.

come and see him within a month," and I had said: "All right, I'll keep him for you," would I have been under contract to keep him?

P. That's a little puzzling. What really passes between us is that you give me an option, and the question is how much that option is worth. If it is worth more than \$50, your agreement to keep the horse, and my agreement to go and see him, do not make a contract, without writing or payment on account. We must distinguish between an option and a contract of sale. Now an option has value: one party has all the advantage, and generally he should pay for that advantage. He can buy or not: if values change: heads, he wins; tails, the other loses. But in a contract of sale, the chances are even, if other things are even: for change of value before the contract is completed, is as apt to be on one side as the other.

T. As a matter of fact, is the mere right to buy goods if wanted (or leave them alone if not wanted), often matter of bargain and sale?

P. Quite possibly more often than goods themselves, especially in some classes of goods. In grain, perhaps the option sales amount to more than the sales of actual goods. The same may be true of some stocks.

T. Suppose there had been a defect in the horse. Was I bound (except in friendship) to tell you of it?

P. If the seller is questioned, he must answer honestly, if he answers at all. But he has a perfect right to say: "There is the property; judge it for yourself."

T. What maxim of law applies here?

P. "Let the buyer look out for his own interests." * This applies specially to horse-trades.

T. Do some very honest people often refuse to say anything about their wares—especially their horses (supposing that a man selling horses can keep honest)?

P. Yes: because they fear that there may be defects of which they themselves are not aware.

T. But what do you think of refusing to disclose a defect when it is known?

P. The principle is not good, but it is like something discussed before: it is more in the field of honor than in the field of law. It would be very hard to enforce laws requiring it, and it is unwise for the law to attempt more than it can do, because failure is very apt to lessen the respect in which it is important that the law be held.

T. But is there no case in which a man is bound to tell the whole story?

P. Yes; an employee or a person acting for another in any capacity, is always bound to tell his principal all essential facts. For instance, if a gentleman sends his coachman to look at a dealer's horse, the coachman is bound to tell all he finds, while the dealer is not.

T. Isn't there another case besides that of
339. Warranty. confidential relations where a seller must tell the whole truth?

P. Of course if he warrants his wares, he must, in self-defence, tell how far he warrants them.

T. But does not the contract of sale imply a contract of warranty?

P. It's a very complicated question. In ordinary cases, the two contracts are separate, and extra price is often paid for warranty; but in dangerous cases, like drugs and food, the courts would probably imply warranty with sale.

T. Of course, as often said, the law insists that there shall be no fraud, but does it not insist on things being usable for the purposes that they are sold for?

P. Generally yes, but that opens up an enormous number of mixed and delicate questions. Probably the farthest the law could go in any case, would be to punish fraud if proven.

T. What large and interesting class of contracts is closely allied to warranty?

P. Those of suretyship, guaranteeing
340. Suretyship. that the responsibilities of another person shall be performed. This, of course, includes endorsement, which we have already treated (285). Even

where you have had no value in a piece of negotiable paper, if you put your name on the back of it, the law assumes a right in any subsequent holder to claim its value from you. You become a surety for it.

T. An endorsement is in writing; but if, when I sold you the horse, you had said that your finances were not in good shape, and a friend standing by had said: "Well, if it turns out that he can't pay you, I'll help him and see you made good," would he have been bound?

P. No: under the Statute of Frauds (101) any "contract to answer for the debt, default or miscarriage of another," must be in writing, and signed at least by the party who may have to answer.

T. What other large class of contracts do those of suretyship and warranty shade into?

P. All kinds of insurance—fidelity insurance is especially like suretyship—but also fire, marine, accident-life, plate-glass and all the rest, are of course of the nature of warranty.

T. What's the law term for movable property that the owner places in the custody of somebody else, or for the placing of such property?

P. Bailment, from the French *bailler*, to deliver.

T. And the owner and receiver are called?

P. Bailor and bailee.

T. Well, now suppose we hadn't ever had so many features in our instructive horse case, because I had delivered the horse to a Railroad Company, and they had failed to deliver him to you: if he had been killed by an accident on their road, would they have had to pay me for him?

P. Yes, unless the accident was caused by "the Act of God or the Public Enemy" (315).

T. We are defenceless against "the act of God," but would I have any chance of recovering the horse's value if he were taken by the public enemy?

P. Yes, if we whipped them and got a war indemnity,

the government would perhaps pay such private claims.

T. How about riot and insurrection?

P. Then the citizen has a good claim against the state.

T. If you had sent your trunk by express, would the company's liability be the same as for the horse?

343 (a), on different kinds of goods. *P.* Yes. The liabilities of common carriers are the same for all sorts of property,

except that they are not responsible for deterioration in perishable goods like meat and fruit, unless there is special agreement regarding time of delivery.

T. What other defences have they?

P. They can charge different rates for articles that differ in durability or strength, and they may perhaps altogether refuse extra-hazardous articles—like dynamite, tho they don't if they can get paid enough.

T. What is a "common carrier"?

344 (b), "Common Carrier" defined. *P.* A carrier for pay, of virtually anything that offers.

T. Suppose you were going yourself and checked your trunk, would the company be liable for any amount of value in your trunk?

P. That is a very doubtful case and has often been decided each way.

T. What makes it doubtful?

345 (c), Limiting Liability without contract. *P.* Differences of opinion as to whether the company can relieve itself from liability by printing on the ticket (as it always does) that its liability shall be restricted to a certain amount.

T. Why? That can't make a contract unless you agree to it, can it?

P. The companies' lawyers claim that in accepting the ticket, I assent to the contract.

T. Why isn't the question settled by statute, then?

P. Probably because the companies influence the legislatures not to settle it the way their constituents want them to.

T. But suppose you haven't even read what was printed on the ticket?

P. The companies claim that one takes the ticket on

his own risk, and ought to read it—in short, that the ticket is a sort of bill-of-lading.

346 (d). *Bill of Lading.* *T.* What is a bill-of-lading?

P. A carrier's receipt for goods. These were issued long before passenger-tickets were—even when people used to travel only by horse and carriage; so the law of bills-of-lading was evolved and settled long before there were any passenger-tickets. A shipper is bound by anything on his bill-of-lading that is not against the law; therefore, if he is wise, he will know what is on it before accepting it.

T. What is the probable reason that the judges don't all decide that passenger-tickets are to be put on the same footing as bills-of-lading?

P. When a queue of fifty people is waiting before a ticket-window, and the train is soon to start, how would it do for each one to have to read his ticket before accepting it? You see there are strong reasons both ways.

347 (e). *Hiring.* *T.* Now take another case of one party's responsibility for returning the property of another: If you were hiring my horse, not carrying him anywhere for pay, would you be responsible to return him unless prevented by the act of God or the public enemy?

P. Yes: he becomes, for the time of hiring, my horse, and I undertake to return him when the time of hiring is past.

T. If, while you had hired him from me, a thief had taken him from your stable, would you have to find him; or if you could not find him, or if the thief drove him to death, would you be responsible to pay me?

P. Certainly.

T. Is there no exception to this responsibility?

348 (f). *The Law does not require impossibilities.* *P.* Yes: if you hire me a horse which, in the nature of things, I *can't* return, I'm not bound to return him—for instance, if, when you deliver him, he has a mortal disease that carries him off while he is in my hands.

T. Suppose he catches grippe while in your stable?

P. That is my risk.

T. How if he's vicious and runs away and kills himself?

P. If I could prove that he was habitually vicious, I would not be responsible; and if you knew it (as in that case you presumably would), I could even get damages for any harm he might do me.

T. What if he is burned up?

P. That is my risk, too, but of course bailees can insure against it, or bailors when bailees are not liable.

T. Would the same principle of liability hold for all sorts of property?

P. Yes, if left for the bailee's use.

T. Suppose anything is received without pay—solely for the bailor's convenience—for instance, jewelry or a picture that one doesn't want to store with ordinary furniture?

P. Then there is no responsibility, except for the grossest carelessness.

T. Suppose, as is often the case, an express company deadheads a private package for a man who gives the company much business, is the company responsible for the deadhead package?

P. No, only for gross negligence: there has been no consideration making a contract to deliver safely.

T. Suppose you had merely borrowed my horse?

P. Then the bailment would have been for my benefit, and I would have been responsible.

T. As responsible as if hiring?

P. Certainly, more responsible in honor, as you got no benefit; and a judge and jury would be more apt to throw all the points against me.

T. Suppose you had gone off for a driving tour with our horse, and stopped at a country inn, the landlord putting the horse in his stable. Would his responsibility to you be the same as yours to me when he was in your stable?

P. Probably it would be stronger. Generally an inn-keeper's responsibility for the property of his guests has been the same as that of a common carrier: perhaps tho, it may be doubted whether this responsibility would extend to the stable.

349 (g). *Bailment without consideration.*

350 (h). *Liability of Innkeepers.*

T. Why did you say what his responsibility "has been," instead of saying what it is?

P. Because the law made by the decisions of the judges was as I stated, but many statutes have been made by legislatures to exempt landlords from responsibility—for instance for jewelry and valuables unless these are specially put into his hands, provided he gives notice to that effect. In some states, to relieve himself of responsibility, he must put them into an iron safe. Perhaps this general tendency to relieve him of responsibility would influence judges as far as the stable.

T. Does the innkeeper's responsibility indicate that of all other bailees for pay?

P. Approximately, tho as he was one of the earliest bailees, and as in early times the law could take much less account of circumstances than it learned to in the course of its evolution, it is rather harder on the innkeeper than on most bailees.

T. Suppose you had lent me fifty dollars, and I had left my horse with you as security?

351 (i). *Pledge.*

P. Well, I should say that, as a pledge, he's not as much my horse for the time, as he would be if I hired or even borrowed him.

T. How would you rate your responsibility, then, if you take him as a pledge?

P. Of course I've got to return him in good order, if he'll let me; but if he gets sick and dies on my hands, I don't think I would be responsible, as I would in hiring. But isn't a horse case a little harder than most other cases? He's more apt than a load of stone, for instance, to get sick and die.

T. Yes, that's one of the reasons I'm using him. We can ring more changes on him than on a load of stone. Well, I doubt if any court would hold you responsible for the horse as a special pledge, tho they do hold people regularly receiving pledges, such as pawnbrokers and stockbrokers, to very strict accountability.

P. Do you know that I don't feel quite easy in my

mind about having to pay for that horse if he dies on my hands, even when I hire him?

T. Well, you gave me strict law, but what do you think about it yourself?

P. I think that if the judge told the jury that I was responsible, and that they must fix the value, they would be apt to fix it pretty low.

T. Well, I guess you're right: it's one of the many situations where "the glorious uncertainties of the law" are specially uncertain. But isn't there some general principle that runs through it all, and which would influence both judge and jury?

P. The law has been evolved from such varying circumstances that, in many departments, it has hardly settled down according to principles. It seems tending, tho, to make the liability—the amount of care required from the bailee, vary with the advantage he derives from the bailment: if he gets no advantage, as in taking to accommodate the bailor, he is responsible only if he is grossly negligent; but if he gets an advantage, as in borrowing, or pays for his advantage, as in ordinary hiring, he must take good ordinary care, and that won't always save him; but when we come to bailors who make their living from their bailments, such as common carriers, innkeepers and holders of pledges, they must take all possible care, and even then they are not always safe in case of loss.

T. Suppose we differed about the amount due in any of our horse cases, and have to go to court, is there anything you would be wise to do first?

P. Yes: to make you a tender of what I think I ought to pay.

T. What's that?

P. To offer you the money I admitted I owed. Otherwise I could not claim the performance of any of your agreements that you hesitated about; and in some states, if a seller tries to back out of a contract for goods, and the buyer makes him a tender, the goods become the buyer's property at that moment, despite the seller's wish.

352 (j). *General principle of Liability of Bailees.*

353. *Tender.*

T. Is there not another great advantage ?

P. Yes: if I had made you no tender, I would have to pay you interest on any sum the court decides due you, and the costs of the suit if the court decided I owed you more than I had tendered. If I made you a tender, I would not have to pay interest up to the amount tendered, or any costs unless the court decided I owed you more than the tender.

354 (a). *Kinds of money in.*

T. Suppose you tendered me a check ?

P. That would not have been a legal tender. The check might not have been good.

T. Suppose you had offered me money, but all pennies or nickels ?

P. That would not have been a legal tender: pennies are legal tender only up to twenty-five cents.

T. Well then, suppose you had offered me silver small change ?

P. Silver small change is not legal tender for over ten dollars.

T. What if you had offered me silver dollars ?

P. They are legal tender for any amount, in the absence of contract to the contrary.

T. How about silver certificates ?

P. They are legal tender only for public dues.

T. Suppose you had offered me gold English sovereigns, then: there's no Bryan, Teller, or Jerry Simpson affecting them, so they're probably the best money in the world. Wouldn't they have been good enough for me ?

P. No: foreign money is not legal tender.

T. Well, what is always legal tender in America ?

P. American money: copper, nickel, and small silver only in the small amounts stated, and gold coin, silver dollars and government legal-tender notes in unlimited amounts, tho you can contract against all but gold.

T. But why should some kinds of money be legal tender and others not ?

P. A debtor should not be able to force a creditor to take a cartload of copper for a thousand-dollar debt, or a

cartload of silver for a ten-thousand-dollar one, if the creditor has not been wise enough to contract against it; much less, a check that it's possible the bank may refuse. So it's necessary for the law to determine what he shall take.

T. Have the judges determined it or the legislature?

355 (b). *Determined by Congress.* *P.* Congress, of course: as the constitution gives congress the sole power to coin money, it alone can say what is money.

T. But does the power to coin money include the power to print paper money?

P. The Supreme Court has decided that it does, but many of the best lawyers still think it does not.

356. *Contractual Disabilities.* *T.* Suppose that after hiring my horse, you refused to pay me anything. Assuming that you are a minor, could I recover?

P. Yes and no: a minor is incapable of making contracts, except for necessities.

T. Anybody but minors unable to contract?

P. In old times, and perhaps still in some states, married women; and idiots are unable everywhere.

T. Suppose a minor's doctor recommends him to ride horseback?

P. Then a jury would have to decide whether, considering his health and circumstances, the horse could be called a necessity.

357. *Some limits of Quantum Valebat.* *T.* If the jury had agreed that the horse was a necessity to you, as there was no contract (you being a minor), on what ground could I have recovered for his hire?

P. On the ground that anybody who supplies a minor with a necessity, may recover "what it was worth" — *Quantum valebat* (318).

T. Is this principle of "*quantum valebat*" applied only to supplying minors because they can't contract?

358 (a). *Enrichment.* *P.* No: it applies when anything really making an "enrichment" is supplied, even by mistake.

T. But a minor is not "enriched" by riding a horse?

P. He is in the legal sense, if it does him good.

T. Suppose it doesn't?

P. He would still have to pay for it, if good judges had recommended it.

T. Suppose he had been supplied with something harmful, as too much whiskey, for instance?

P. The seller couldn't recover.

T. Can you give a case in point?

P. Yes, the question of "*quantum valebat*" is constantly arising where things have been furnished not under contract but by mistake. Once a lot of money was paid an English admiral by mistake. He went on a long spree with it, and successfully defended a demand for its return on the ground that it hadn't enriched him any. There are many good judges who doubt if it was good law, however.

T. Suppose I had agreed to sell you the horse, and then wanted to back out on the ground that there was no contract, because you were a minor. Would the judge let me off?

P. Probably not. It is a maxim that "no man has a right to take advantage of his own wrong." You, being of age, are supposed to know what you have, and have not, a right to do. You have no right to contract with a minor (unless the horse was a necessity, under his health and circumstances) and therefore you cannot take advantage of his being a minor, to set aside the contract.

T. But suppose for some reason which we need not take the trouble to invent, a minor wishes to set aside a contract, hasn't he been as wrong to go into it as the adult? So should he have any more right to set it aside?

P. Yes, the law is pretty decided that he should. It is the special province of the law, so far as it can, to protect the weak. The minor is in special danger of being led by adults into unfair contracts, so he rightly has the power to set them aside. The adult, on the other hand, is left to take care of himself, and is all the better for the responsibility.

T. But you said some time back that the law could

359. The law protects the weak.

not attempt to discriminate between strong men and weak ones.

P. So I did. How can it measure them? But it can tell the difference between people over twenty-one and people under.

CHAPTER XVIII.

LAW OF CONTRACTS FOR PERSONAL RELATIONS.

360. Agency. *Teacher.* Now suppose that in our first case, after I had sold you the horse, instead of the sheriff meeting me, when I get home my man comes out of the stable with a grin and says: "Here's a hundred dollars that I just got from Mr. Blank for that horse you told me to sell, and he has taken him away." Whose horse is he?

Pupil. That depends upon whose horse he was when your man sold him to Mr. Blank. If you had previously sold him to me, he was mine: you couldn't give Mr. Blank any title to him that you didn't have yourself. But if your man had sold him to Mr. Blank before you sold him to me, you hadn't any title to sell me.

T. That seems reasonable, but could my man give Mr. Blank as good a title as I could give you?

P. He could give him as good a title as you had, if you had made him your agent to do so.

T. Suppose I had not said to him substantially: "Sell that horse when you can get \$100 for him," but had only said substantially: "I think I'll sell that horse when I can get \$100 for him"?

P. Then you had not made him your agent to sell the horse, and no agent can do more than he is authorized to do.

T. Is there any exception to that?

P. Yes: an agent can do all that his principal has given the third party good reason to believe the agent has been

authorized to do: for instance, if you had said to Mr. Blank so lately that you could not be reasonably supposed to change your mind: "I always let my man buy and sell my horses as he thinks best: I'm so buried in my books that I don't attempt to know anything about the stable"—if you'd said that, you would be estopped (319) from denying it to Mr. Blank, right on top of it, after he had acted on the faith of it.

T. Is the principle of estoppel the only one or the main one, that forces a man to abide by the authorized acts of his agent?

P. No: it is an old maxim of the law that he who does an act through another, does it himself.*

T. Suppose I had said: "Sell that horse for \$100." Would he have had a right to give you an option (337) on him for a month?

P. Certainly not: that did not give him the right to tie him up for a month so that you couldn't take a better price, unless you were sure of the sale at the end; or perhaps for that long, even if you were sure, because he might get sick or die meanwhile.

T. Suppose I had said: "Do anything you please with him that will put me to no expense, but don't bring me less than \$100."

P. That would probably have given him a right to give an option, if he honestly expected that it would lead to a sale: yet it was rather risky. Most courts would probably hold such an option good, if the consideration for it were good.

T. Well, now, in the horse case, suppose I was not the real owner, but merely agent for the owner, and the owner disapproved my selling him, would the court still enforce the sale?

P. That would depend, as already said, upon whether he had led me to believe you had the authority; or if not, upon whether you had exceeded your authority, or whether, merely, the owner had changed his mind after giving you authority. A principal is always bound by

* *Qui facit per alium, facit per se.*

the act of his agent, unless the agent exceeds his authority.

361 (a). Agent cannot make any profit for himself. *T.* Suppose I having said: "Sell him for \$100," he had done his best and got for himself \$150, would he have a right to keep the difference?

P. No: an agent is simply his principal's self, as far as business between them is concerned.

T. To leave horse-trading for a moment, suppose you sent me to buy a piece of land on which you were going to make an improvement that would greatly raise the value of land in the neighborhood, and I bought some neighboring land on speculation myself. Could I keep it?

P. Not if I wanted it at the price. An agent in a transaction simply represents his principal in everything connected with it.

T. Would it be my duty to tell you about the neighboring land?

P. Yes: so far as everything connected with an agent's business is concerned, his mind should be simply his principal's mind.

362 (b). Agent liable for exceeding his authority. *T.* Suppose, tho the consideration for your option on the horse was held to be good, the option itself were held not good because the agent had exceeded his authority, and you couldn't get the horse. Would you have any remedy?

P. Yes, I could probably recover damages by suing the agent.

T. You couldn't sue the principal?

P. No: a principal can be sued only for what he has authorized an agent to do, or that which through negligence he had permitted his agent to assume authority to do, having placed the agent in a position in which he might deceive the public.

363 (c). Both liable in wrong-doing. *T.* If I make you my agent, then, to commit a murder or robbery, does the responsibility not slip past you and entirely upon me?

P. No: In all wrong-doing, agent and principal are both responsible, where the agent acts under instructions.

T. Well, aren't they in all right-doing too?

P. Quite probably they were in early times, and we can imagine many cases now where the other party to the contract might in reason sue the agent, and then the agent sue the principal, or *vice versa*: but it is a maxim that "the law abhors litigation," and in most such cases, the judge would order the first plaintiff to sue the last defendant direct. This fact and the fact that the principal is generally "good" for damages, while the agent generally is not, naturally make the custom as it is. "Let the superior answer" * is good sense and good law.

T. But isn't there another principle of law working in the same direction?

P. Yes, under the maxim already quoted—that whoever does a thing by means of another, does it himself: so the agent is regarded somewhat as a mere involuntary instrument, and therefore not responsible.

T. But is a principal always responsible for his agent's wrong-doing?

P. Only if it occurs in course of anything that the principal has authorized his agent to do, but not in anything the agent does outside of his authority.

T. Give an illustration, please.

P. A servant was throwing snow from the roof of a house in New York. He had not given any notice to passers-by, and killed a man. The master had to pay damages to the man's family.

T. Had the master ordered the servant to throw off that snow?

P. It was not necessary that he should. Agents such as servants and employees generally, have certain regular and ordinary duties; whatever they do in direct connection with those duties, their employers are responsible for.

T. Isn't that rather hard on a man who, through bad luck, gets hold of a careless or wicked servant?

P. That's the master's bad luck, and not the victim's.

* *Respondeat superior.*

But servants are hardly a question of luck. The law does well to hold a man responsible for care in selecting his servants or any other agents. An employer of many men could do great harm in being careless whom he sets to shoveling snow from roofs, or driving horses through the streets, or running elevators or engines.

366 (f). which justice to the sufferer generally requires. *T.* But if the agent does wrong, wouldn't it be fairer to sue him than to sue the principal?

P. Not generally fairer to the sufferer, because generally the agent is the man of inferior Ability, and therefore, of inferior wealth. But if he has any money, the sufferer may sue him if he prefers.

T. People often employ brokers and commission merchants for the very purpose of keeping themselves in the background. How can the other party to the deal feel secure of his right in such a case?

P. He must take his risks with the agent. The agent is personally liable when he does not disclose his principal.

367 (g). Classes of agents. *T.* What are the principal classes of agents?

P. In the first place, anybody appointed; and generally, attorneys, commission-merchants, brokers, auctioneers, salesmen, clerks, domestic servants, and any employee—so far as concerns what he was employed to do.

T. But it isn't usual to call clerks and servants agents, is it?

P. It is in law: anybody who does anything at the order or request of anybody else, is his agent.

368. Partnership. *T.* Well, let's come down to the horse case again. Suppose it turned out that I didn't really own him all by myself, but that another man and I had bought him on speculation, and my partner didn't approve an option I had given. Would that option stand?

P. Certainly: in dealing with outsiders, any owner of partnership property controls the whole of it. He is more than even an agent with full powers over all the firm's property: each partner has all the powers of an

owner. These powers are limited of course to the partnership business. A man may be partner in several concerns: of course his partner in only one could not control anything in another.

T. But in case of disagreement among the partners of one firm, can a firm limit a partner's authority?

P. When there is a disagreement, notice can be given, and anybody having such notice would deal with a partner at his peril.

T. But when partners disagree, and a person dealing with them had no notice?

P. When one has spoken, the rest must abide by what he has said.

T. But suppose he runs them in debt?

P. Each one is liable to the full extent for everything any one partner may do in relation to the partnership property.

T. You mean to say that if I own one-tenth in a partnership property, and you own the rest, and you are rich in other things while I have nothing else, I can run into debt for a lot of cats and dogs, and you will have to pay for them?

P. Yes, if we appear before the world as partners, and the cats and dogs are sold to us in good faith for the partnership account.

T. Isn't it very foolish, then, for a rich man to take a poor one into partnership?

P. He certainly ought to know him very well: for a man's whole estate is at his partner's mercy.

T. Always?

P. No: a limit to the liability of any partner can be made by advertising the amount that he has put in, and stating that the liability is limited to that amount. The method varies in the different states, however, and a lawyer should be consulted.

T. When partnership is dissolved, how is the liability of each partner for the others' acts, terminated?

P. By notice of dissolution to people with whom the firm has regularly dealt, and by newspaper advertisement to others.

T. In scientific language, does “service” mean merely household service?

369. *Service.*

P. No: almost any act that one does for the satisfaction of another is called a service.

T. Is pleading a case or singing a song, a service in that sense?

P. Yes.

T. Suppose you contract for any sort of service, from that of a bootblack up to that of the highest artist, for any period—say for a week—what are the duties of employer and employee?

P. The employee is bound to give good service and good behavior for a week, and the employer is bound to give decent treatment and honest pay for a week. If either defaults, it releases the other, and the defaulter is of course liable for damages.

T. Well, that seems plain enough. But among employers and servants both, is there not a good deal of stupidity and ignorance about this matter?

P. There are not a few employees of all kinds who think they can be lazy and disagreeable, and still get their pay—even going to the point of asking pay for the full time agreed upon, when they have been deservedly discharged before it had elapsed.

T. What is the duty of an employer in such a case?

P. It is always a good citizen’s duty to fight even petty injustices, rather than yield because yielding is less trouble. Only in that way can the public idea of justice be kept high.

T. But in quarrels between employers and employees, are the employees always in the wrong?

P. By no means: employers sometimes maltreat servants or discharge them when the servants are really not to blame.

371 (b). *Discharge without cause, or leaving for cause, does not.*

T. What are the employee’s rights in such cases?

P. To get wages for the full time agreed upon, even if no service is rendered for the portion of it after the discharge. But it is the duty of an employee to try to get work, even if wrongfully discharged, and any salary re-

ceived for service during the contractual period, must be applied in reduction of the claim on the employer.

T. Do the same principles hold between mechanics and clerks and their employers, as between domestic servants and their employers?

P. Yes; for that matter, the law calls all persons servants who are in the employment of others for salary; the President himself is sometimes called the servant of the people.

T. Suppose, then, the servants in a house or mechanics in a factory are paid by the week, and one of them is found to slouch or scamp his work, is the employer bound to keep him the full time?

P. Not at all.

T. Can the delinquent claim wages for the full time, under the contract?

P. Not at all. His contract means honest work for honest dollars; if he does not render the work he is not entitled to the dollars.

T. But if the employer turns him off Wednesday, he might have worked honestly Thursday, Friday and Saturday?

P. The law always judges people by their records.

T. But suppose a man with a good record commits a crime?

P. The law is more merciful to him than to a man with a bad record.

T. But suppose an employee's record is good, but an employer finds he does not need him as long as he contracted for?

P. That's the employer's lookout. He should engage for only practicable terms.

T. Suppose the employee is offered higher wages to leave a fair employer before his term is out?

P. He's bound to stay his term, of course.

T. In the absence of special agreement, what decides the term?

P. Usually the period for which payment is made: the special customs of the trade may affect the question.

T. If a servant leaves without just cause before the

end of the term, is he entitled to *any* pay on account of that term?

P. The judge would probably give him a *quantum meruit* (318), but if his departure had caused his employer serious inconvenience and loss, the judge would probably deduct part or all of the *quantum meruit* to make the matter good, or even award the employer damages.

T. The case of the servant leaving which we just cited, might be a very important one, for instance if he were an expert engineer or electrician or life-insurance actuary, whose place it might not be easy to fill.

Now, what classes of remedies does the law provide when contracts are broken in such cases?

373. Remedies for Broken Contracts.

P. It will either issue an injunction against the employee taking service elsewhere, or give damages, or, if the case admits, combine both.

T. Suppose the contract is not for personal service, but, we will say, for manufacturing goods, or building a house?

P. Then the court would probably order "specific performance," as well as give damages for delay.

T. Does it give the aggrieved person any choice of the remedies?

P. Yes, it tries to meet his wishes, as far as justice will permit.

T. We have now gone through with the principal kinds of contracts. Can you rehearse them?

P. Sale, Warranty, Surety, Insurance, Bailments, Agency, Partnership and Service.

CHAPTER XIX.

LAW OF SOME QUASI-CONTRACTUAL RELATIONS.

Teacher. Now we come to a set of relations that sometimes arise under contract, and sometimes by mere appointment and acceptance. Can you see anything like a contract in the latter relation ?

Pupil. Why, there would seem to be consideration on both sides—giving the position with its emoluments (if any) on one side, and the performance of its duties on the other. Accepting a position is certainly undertaking to perform its duties.

T. Well, we'll call these relations quasi-contractual ones. What are the most important of them ?

P. Those of the various kinds of trustees who manage property for the benefit of others.

374. Trusteeship in general. *T.* Is a trustee merely a representative of another person or party, as an agent is ?

P. No: he really owns the property for a longer or shorter time, but for another's benefit.

T. What are the principal classes of trustees ?

P. Directors of corporations (who are trustees for the stockholders); trustees without special names, who may be appointed for thousands of purposes; assignees of bankrupts; administrators of estates when there are no wills; executors of wills, and guardians of minors.

T. If a trustee does not pay over what is entrusted to him, or take reasonable care of it, is he liable to have his own property sold to make up any losses ?

P. Yes.

T. Does anything else happen to him ?

P. "Breach of Trust" is a crime punishable with imprisonment.

T. Does it often happen?

P. Vastly oftener than inexperienced observers have any idea of, especially regarding the property of women and children.

T. What are the best defences yet evolved against it?

P. Making a "Trust Company" a trustee, instead of an individual; tho probably it is best to associate with it an individual friend of the family. Then instead of one man secretly yielding to temptation, it would generally be necessary for all the officers to yield together, with the knowledge and connivance of each other.

T. What does the "assignee of a bankrupt estate" mean?

375. Assignees of Bankrupts.

P. When, through misfortune (or oftener through lack of economy or energy or some of the other qualities essential to Ability), a man's debts exceed the value of his property, it is almost useless for him to go on in his own way, because he is apt only to make things worse. It is usual then to declare him bankrupt (*bench-broken*, from an ancient custom in the Italian exchanges of breaking the bench of a banker who had gotten into such a fix) and for him, either voluntarily or through the action of a court, to assign his property to a trustee who will dispose of it and pay the creditors such portion of their claims as it will yield.

T. How do they get the rest of their claims?

P. They don't get it all. After the settlement, such as it is, is made, the assignee gives an account of it to a court, who discharges the bankrupt from farther liability.

T. But is this fair to the creditors?

P. A good deal fairer than to let the bankrupt go on making worse ducks and drakes than before, and insuring that the creditors' share would be smaller still.

T. But the bankrupt's bad condition might be temporary—the result of some special misfortune?

P. Then if he is relieved of that portion of his debts

376 (a). Justice of discharging Bankrupts.

which he is not at the moment in condition to pay, he can take a fresh start with lighter burdens; and if he really has Ability, in spite of his bankruptcy, there's nothing to prevent his paying his deficit when he makes money enough to, as indeed happens in an occasional case.

T. But if a man has no Ability, and his creditors take all the property he holds, what is to become of him?

P. He's to find the place for which Nature made him, under the guidance of some man who *has* Ability.

T. Is there any difference in the ways real estate and personal property are disposed of at the owner's death?

P. Yes: if no will is left making a different disposition, the real estate, subject to dower or courtesy rights, at once becomes the property of the heirs, while personal property is held in trust by somebody appointed by the court, called an administrator, for the payment of funeral expenses and debts, before any of it can be divided among the relatives or others entitled to it.

T. Do you mean that a family must live off the real estate until all the debts are paid? There might be some in litigation that could not be paid in years.

P. No: the court makes such allowances from the personal property as the estate seems to justify, and even leaves something to the discretion of the administrator.

T. And how are rights of inheritance determined when there is no will?

P. They vary in the different states, but generally, rights of dower and courtesy being allowed for, the real estate at once vests, without any formality, equally in the heirs. Heirs is really a technical term, meaning the persons who take real estate when there is no will. They are the nearest blood-relatives of the same degree—children or their descendants if there are any; if not, parents if there are any; if not, sisters and brothers or their descendants if there are any; and so on, out to remote degrees of relationship. The children of a deceased person who would take if living, divide equally the shares that that person would have had. Of personal estate,

377. Administrators.
Devolution of intestate estates.

378 (a). Rights of relatives of intestates.

husband or wife usually takes a third, or a half where there are no living descendants; and the rest is divided like real estate.

379. Executors,
Wills.

T. Suppose there is a will ?

P. Then matters are settled up by one or more persons usually appointed in the will and confirmed by the court, called executors.

T. Is there any advantage in this ?

P. Yes, a very great one. A man who has accumulated and managed property is apt to be a much better judge of who had better manage it for his family, than a court who knows nothing about it, and is apt to appoint as administrators near relatives who may lack the necessary business qualities.

T. What are the usual essentials of a will good in law ?

P. It should be in writing, state the testator's desires clearly, and be as simple as possible. If it is intended to give a wife property to take the place of her dower rights, it should clearly say that the property is given in place of dower (or to a husband, in place of courtesy); it should name all children, even any that it may intend to cut off, so that they will not be supposed to be overlooked; it should be dated, and state that the testator revokes all other wills previously made by him; and it should be signed in presence of two witnesses not otherwise named in it, who themselves sign a statement written on it that it was signed in their presence, pronounced by the testator as his (or her) last will and testament and that, at the testator's request, they have signed it in his (or her) presence, and in the presence of each other. They should also append their addresses.

T. Suppose it is not said in the will that it revokes all previous wills, and a previous one is found ?

P. Its provisions must be carried out so far as they can without upsetting provisions of the new will. For instance, if the new will names bequests to A, B and C, and an old unrevoked will is found, leaving bequests to E, F and G, if there is money left after A, B and C are paid, E, F and G will be paid, or paid pro rata as the money holds out, and these payments would be at the

expense of such persons as would otherwise have the money under the last will.

T. If a will is known to have been made, but cannot be found, what is done about it ?

P. If it can be proved that the testator did not destroy it, and wished it enforced (for instance, if it was accidentally destroyed after his death) and if any of its legal provisions can be satisfactorily proved (which they seldom can be), they are carried out. Otherwise the estate is divided as if there had been no will.

T. If after making a will, a man sells a piece of property named in it, does the person to whom he has left it, get no equivalent ?

P. No: the will is to that extent of no effect; so people naming special pieces of property in wills, must be careful afterwards. A better way, unless there is reason to the contrary, would be to name only sums of money, or shares of the estate.

T. What is the effect of marriage or the birth of a child, after making a will ?

P. In some states, either sets aside the will, it being assumed that it would be the testator's wish that the new member of the family should be provided for, which of course, would be done by treating his estate as if he were intestate.

T. Can a man leave property to whom he pleases ?

P. Theoretically, yes; tho if he passes over those who would naturally be nearest and dearest to him in favor of others, it would make it easier for those neglected to prove him of unsound mind, so that his will would be set aside.

T. Are any other wills than those of persons of unsound mind set aside ?

P. Yes, under the English law, and still in some states, those of boys under fourteen and girls under twelve, tho in most states the ages have been raised to eighteen and sixteen. Until lately, under the law of England, too, and perhaps still under that of some of the backward states, married women cannot make wills.

380 (a). *Who cannot make wills.*

T. Is there no other restriction regarding what the law will or will not see carried out in a will?
 381 (b). *Restrictions on alienation.*

P. The experience of ages has shown that it is against "the greatest good of the greatest number" as the philosophers say, or against "public policy" as the lawyers say, that land or capital should be kept in hands that cannot or will not use it properly, and so made more difficult of attainment by people of Ability who will get the most out of it and manage it so as to afford the most employment and product for their fellow men; and also it has been realized that it is against public policy that the accumulation by compound interest of enormous properties should put so much power in any set of hands as to make them dangerous to the community. For these reasons the law will not give efficacy to any disposition of property which will delay its passage into new hands for many generations. So it is very important in making a will leaving property in trust for the benefit of children or descendants more remote, not to run up against any of the laws affecting alienation.

T. What are they?

P. There are several, varying in different states, and much complicated by decisions in various circumstances: so it is wise to consult a lawyer whenever trying to tie up property for anybody's benefit.

T. Can you illustrate the difficulties?

P. In England, it is the drift of the law to let property be tied up at least during any existing life. Once a trust for the benefit of all the testator's grandchildren was maintained until the death of the last of eight grandchildren *who were alive when the will took effect*. But more grandchildren born *after* the will took effect, got no benefit from the trust after the last of the earlier grandchildren died. Yet of course the later ones participated in the division of the estate that the law then required.

T. Can you give an American illustration?

P. Yes, one in a direction somewhat opposite. The American law tends to restrict alienation only during the

longer life of one of two living persons who must be *designated* in the will. Hence when a testator tried to create a trust for the benefit of four granddaughters, it was declared void because he had not designated two, during the life of the surviving one of whom it should last.

T. Is there no exception to the prohibition of tying up property ?

P. Yes, it can be tied up for educational 382 (c). *Devises for educational or charitable uses.* or charitable uses as long as one pleases.

T. And can the benefit of such things as hospitals and schools be restricted to particular kinds of people ?

P. Yes.

T. Why, then, could not a man endow an elegant domain with homes and schools whose use should be restricted to his descendants forever ?

P. Because it would be a plain attempt to evade the law.

T. But who is to say whether such a scheme is an attempt to evade the law ?

P. That's one of the things that judges are for. They are all the time stopping attempts to evade the law.

T. But how would such a case be brought to the attention of a judge ?

P. As soon as the time should come for proving such a will, or later, when the legal time should come for dividing up the property, there would probably be people entitled to inherit, who would apply to the courts for their rights.

T. Suppose all a man's family had died out ?

P. Not likely: there would be a distant relative somewhere. If not, the property would escheat to the state, in any case.

T. When all bequests have been paid, if anything is left over, does it escheat to the estate ?

P. By no means: it is divided as the law would have divided the whole estate if there had been no will.

383. Guardianship. *T.* Does a minor child at once become the owner of his share of a parent's estate ?

P. He holds the legal title, but the management of it, including the signing of all papers relating to it, is generally done by his guardian—a person approved by the court, often the surviving parent, tho the guardian is generally named in a will.

384. Need of Probate Courts.

T. You spoke of a court appointing administrators and confirming executors. Why should a court come bothering in the private affairs of a family when it loses its chief member or any member?

P. To begin with, a will is often questioned, and somebody must pass on its validity. Then the estate of a deceased person is not merely an affair of his family. The richest man owes some debts—probably the richer he is, the larger they are. Moreover, as we have seen, a man of great Ability is called upon to help manage the affairs of a great many people—as guardian, administrator, and in the various other forms of trusteeship. His relations to all these people, not to speak of those to his family, often give rise, after a man's death, to a great many questions, and civilization has never evolved very far without its being found necessary to have special officers, and even special courts, to see that justice is done in all these connections.

T. Is the multitude and complexity of these relations the only reason why courts should supervise the management of the estates of deceased persons?

P. No: those for whose benefit the estates are settled—especially children, when they grow up, might not be satisfied, and might make claims on a guardian, or on the executor of a will, or the administrator of an estate where there is no will. If such trustees act under the advice and supervision of a court, their acts cannot be successfully questioned.

T. Are minor heirs the only persons whose property is cared for by somebody else?

385. Trustees for defectives.

P. No: generally a court appoints somebody to care for the property of lunatics, drunkards and spendthrifts who have families dependent on them.

T. Have you given all the reasons yet why trustees generally should be watched over by the courts ?

386. Court supervision of Trustees in general.

P. By no means. The persons having the interests of others in charge are not necessarily superior to ignorance and temptation. The courts supply them with the experience of ages, and tend to guard them against wrongdoing of all kinds.

T. What are the general methods of doing this ?

P. By telling them under what circumstances they may sell or mortgage real estate (unless unlimited power has been conferred in a will) and what sorts of investments they may make; and also by requiring accounts of their proceedings.

T. Are these methods very efficacious ?

P. Not perfectly so, any more than any other human inventions are: hence the desirability of a will, naming executors who can be trusted, or associating a trust company in the management of the property.

T. And when the task of any of the trustees we have been talking about, is done, how can they be made safe from future trouble ?

P. They take their accounts before the proper court, and after the court has approved them, the persons are free from all liability, unless later there is evidence of fraud.

BOOK II.—THE PROMOTION OF CONVENIENCE.

CHAPTER XX.

PRELIMINARY SURVEY.

Teacher. So much for government's protection of rights. Now, what is its other general function ?

Pupil. The promotion of the people's convenience.

T. While we have been discussing the state's relation to rights, what conveniences has it come in our way to touch upon ?

P. When we were treating of natural monopolies, we mentioned roads, bridges and ferries, railroads through country and city, water and gas supplies, sewer connections, and the development of extraordinary mines, springs and scenery.

T. As we know, some of these things are objects of attention in all civilized governments. Are any other things (excepting Rights, of course), universally so ?

P. Many—chief among them, money, education, postal service—which in Europe often includes the carrying of telegrams and packages—surveys and maps of the country, harbors well dredged, protected and docked ; light-houses, coast life-saving stations, parks, museums, libraries, almshouses, asylums and hospitals.

T. You say that the things just enumerated are provided by *all* civilized governments. Now are there more things still provided by *some* governments ?

P. Yes, such as superintendence of public health,

electricity, public baths and lavatories, pawnshops, concerts, lectures, houses for the self-supporting poor, and cemeteries.

T. Are all these things gratuitous, except, of course, as taxes pay for them ?

P. No: persons using money, railroads, mails, harbors, water, light, cars, ferries, houses, and cemeteries for their dead, generally pay for them.

T. How comes it that some governments take care of some of these things, and not of all ?

P. A century ago, hardly any government took care of any of them, except money, roads, lighthouses, harbors, and, in a very limited way, mails and parks.

T. Were the parks then really public parks ?

P. Hardly: they were rarely more than the pleasure-grounds of rulers and rich people, occasionally thrown open to the public. The great parks which everybody can enjoy at all times were almost unknown.

T. Regarding some of these conveniences, what difference of opinion prevails ?

P. As to whether government had better supply them or leave people to do it for themselves.

T. Regarding those that *all* civilized governments supply, we may as well consider debate closed, at least, as regards the wisdom of government supplying them. But even of them, aren't there some on which there's great debate regarding what kind, and how much ?

P. Yes: "what kind, and how much" are hotly debated regarding money, treatment of the defective classes, roads in their new forms of railroads and street railways, and sundry minor matters.

CHAPTER XXI.

MONEY.

General Considerations.

Teacher. Let's begin with a topic that has, at least, one easy side. Of all the items enumerated, which is probably the earliest supplied by government, and the one where government agency is most taken for granted?

Pupil. Probably money.

T. But what's the use of our spending any time now on money questions? Didn't the Act of March, 1900, (not to speak of the election in November,) dispose of them all as far as this country is concerned?

P. Mr. Bryan's followers didn't seem to think so. Money questions will never *stay* disposed of as long as the vast majority of mankind are of low producing power and low intelligence. So long men will try to better their condition by tricks with money, land-tenure, government control of production—all of the old schemes to get something out of nothing, but with hosts of new faces.

T. Is that the only reason why the Act of 1900 cannot finally settle all the questions?

P. It did not touch all the questions, as we shall see.

T. Well, let's get to business then. Why is it very important for the citizen to understand the government's relation to money?

P. For three reasons. First, because fooling with money questions by the ignorant has caused this country

and most countries some terrible disasters—this country, perhaps, worst of all, because here the ignorant have most to say. Second, because money questions come more directly home, literally, to each man's pocket, than any other questions which government affects. Third, because, for that very reason, people are apt to suppose they know all about money questions, and are therefore less apt to leave them, than questions of the post-office, the coast-survey and light-house-board, and the administration of war and justice, to be settled by people who really know.

T. But is not the administration of justice the most important of all government's functions, even more important than issuing money?

P. True, justice is of the very highest importance—more important in a general sense than money: but nothing works more against justice than ignorant tampering with money. Money touches every man, while not one man in fifty ever gets into court; and when he does, he soon finds that he doesn't know anything about law. But nearly every man has a little money, and so seems to think he knows all about that; and apparently, if he hasn't any at all, he is still more apt to think he knows all about it.

388. Barter and Money.

T. Yes, the less a man knows, the more he's apt to think he knows: so I hope you know enough to be ready for a somewhat careful study of this subject. Now, to begin without any of its complications: Suppose there were no money in the world, and a farmer wanted a hat, and his wife a frock, and his child a pair of shoes, can you tell me a good way for him to get them?

P. Why, he could trade off a load of potatoes or whatever he might have, at the store.

T. Do you know the usual name for such dealings?

P. Barter.

T. When is it customary?

P. Only before people become civilized enough to have money.

T. Now suppose there were within reach of our

farmer only city stores of the kinds where they don't keep all sorts of things at once ?

P. Then he would have to cart his potatoes till he could find a village store where they deal in everything he wants, and would barter with him.

T. But they don't have good country stores near the cities, because people prefer to deal in the cities. It might be quite a journey to one. Couldn't he do something else in the city near by ?

P. He might go around till he found a shoemaker who wanted just potatoes enough to pay for a pair of shoes, and a hatter who would take just potatoes enough to pay for a hat, and a dry-goods man who wanted just potatoes enough to pay for a frock.

T. But the city storekeepers wouldn't bother with such dealings, would they ?

P. No, probably not. The farmer might spend a week, perhaps, without finding one who would. They would all laugh at him for asking them to.

T. Still, of course all this trouble would be necessary only if we had no money. Now as we have money, what would the farmer naturally do ?

P. Take his potatoes where they buy potatoes, and then take his money where they sell shoes or hats or frocks.

T. So the mere fact that we have money would save him as much trouble as, probably, his potatoes cost. Now think this over in regard to all sorts of dealings, and you will get some idea of the very great usefulness of money. Suppose, tho, that our farmer got paid in poor money ?

389. Swindling by money. *P.* Then he couldn't do anything: but any man giving another poor money deceives him and robs him.

T. Very true! And what would you think of a man who tried to make all the money in the country poor ?

P. He would attempt the greatest fraud that can well be conceived of, and a frightful deal of harm.

T. And yet a well-meaning man might attempt such gigantic fraud as that, from ignorance. Let us investi-

gate. How many kinds of money do we use in the United States ?

390. Kinds of Money. *P.* Five: paper, gold, silver, nickel, and copper.

T. Have there ever been any other kinds of money ?

P. Yes. The Chinese, Spartans and a good many other nations have had iron money. The American Indians used wampum for money; and they also, as well as our New England ancestors, used discs of shell. The fur-traders near our northern borders, and many other people, have used skins. Tobacco too has been used, and so have wheat and corn; and in Africa cattle and even slaves have been used as money, and called live money, as distinct from other kinds, called dead money.

T. You give all these things the same name: money. Now when a variety of things can all be grouped together under a single name, must they resemble each other ?

P. Yes, all things that can have a name in common, must have at least one quality in common, but they need not look alike, any more than all things we call food look alike.

T. Well, what qualities have the very different things we call food, in common ?

P. They can all be eaten, and will all help keep the body alive.

391. Qualities of all money. *T.* Now what qualities in common have all the things that have been called money ?

P. Wherever a thing is used as money, people will give nearly all other things for it.

T. But people will give nearly all other things for a check on a bank, or a promissory note. Do you call them money ?

P. No. I said people *generally* will give other things for money; for checks and notes, other things will not be given by people generally, but only by people who know all about the checks and notes, and have confidence in them.

T. Can't you see another difference that is implied in what you have just said ?

P. Yes: if a check or a note turns out at any time not to be good, the person who received it usually has a right to demand that the person who paid it shall make it good: that's one reason for wanting to know if the person signing is solvent. But if money is what it appears to be when it is paid, the debt is discharged once for all. If, for instance, a bank breaks or a government is overthrown, those who have any of its money cannot require the people from whom they received it, to make it good to them.

392. *Bad money as Legal Tender.* *T.* Do you mean that when a creditor accepts a legal tender (353-5) the debtor is legally free from farther liability, even if the money should turn out bad?

P. Yes.

T. Do you mean if it should turn out counterfeit?

P. No: counterfeit money is not money at all—not even bad money, any more than a portrait is a person.

T. What did you mean, then, by real money turning out bad?

P. Government notes are real money, but they would be worth no more than paper if the government did not pay them. So a silver dollar of the present weight is real money, but it would be worth but fifty cents if the government would not give a gold dollar for it.

T. But can bad money ever be legal tender—can a man be legally obliged to take it?

P. Yes: the treasury notes now in circulation are not good money, because they are not expressly payable in gold, yet they are legal tender; and bad money was made legal tender all through the civil war and for years after it, until in 1879 government made the money good by being ready to give gold for it.

T. Very well. Now can't you pack your characterizations of money into a portable definition?

393. *Definition reached.* *P.* *Money is anything for which substantially all the people in a community will part with anything they are willing to dispose of, and which discharges forever the debt for which it is received.*

T. What is usually the most noticeable difference between good and bad money ?

394. Bad money buys less than good. *P.* For anything they have to sell, people want more bad money than good money. For instance, when our New England people began using discs of shell for money, at first people would take a few of them as pay for ordinary purchases; but soon, so many discs were made that nobody would sell a thing for any amount of them. The same way during our great civil war: people North wanted at one time nearly three greenback dollars for a thing that they would take one gold dollar for, and people at the South wanted a hundred Confederate paper dollars for anything they would sell for one gold one, and at last they would not sell things for the paper dollars at any price.

T. But people sell the same thing now for a United States paper dollar that they will sell for a gold one. What has made these great differences in the value of paper dollars ?

395. Value in paper money. *P.* The value of paper dollars depends upon the chance of getting gold ones for them. A note of a government or of a bank has no magic about it, any more than the note of an individual, even tho it does have more pictures over it, and the pictures do fool the ignorant. It is but a piece of paper containing a promise to pay, and all its value beyond that of the pictures, is in the reliability of that promise. Now you can get a gold dollar for a paper one at any moment. During the war you could not, and it was very uncertain when you could: and the value of the paper dollar varied with that uncertainty until at times it was worth but forty cents in gold. The uncertainty was greater regarding a Confederate paper dollar than a Union one, so the Confederate dollar was generally worth less than the Union one, and finally it became certain that you never could get a gold dollar for a Confederate paper one, and the paper ones were worthless.

T. But if a paper dollar is money, why should anybody bother about the question of getting a gold one for it ?

P. For one reason: because a paper dollar will soon wear out.

T. But banks and governments are constantly exchanging new paper money for old. Haven't you a better reason than that?

P. Yes: if a paper dollar should not be useful as money, it cannot be put to any *other* use worth a dollar. It would only be used as a picture, generally a prettypoor one, or as paper pulp to make new paper, and is not worth a tenth of a cent for that purpose; while the gold in a gold dollar can be put to a thousand uses, any one of which is worth a dollar—in short, *a gold dollar is worth a dollar, and a paper dollar is worth nothing except as a promise to pay a dollar; and how much that promise is worth, depends upon how likely it is to be kept.*

396. Fiat Money,
Token Money.

T. What is money of no intrinsic value called?

P. Fiat money: *fiat* is the Latin for *let it be*. Fiat money is money only because the government says: "Let it be money."

T. Has it no other name besides "fiat money"?

P. Yes, it is also sometimes called *token* money, just as a gambler's counters are tokens to be redeemed in money valuable in itself.

T. What name is given to the money valuable in itself, which redeems fiat money or token money?

397. Redemption
Money.

P. It is called redemption money.

T. Will both kinds be taken in foreign countries?

P. No. A gold dollar will be taken for about the value of so much gold almost anywhere, because somebody near at hand can use it as so much gold. But a paper dollar will not be taken at full value in a country where it was not issued, because nobody can use it there for anything but old paper, and it must be sent home for redemption.

T. Do you mean to say that if you were in London with a pocketful of greenbacks, and nothing else, you couldn't buy anything?

P. I couldn't until I had hunted up a dealer in foreign

money, and sold him my greenbacks at enough discount to pay him to send them here and get the gold back.

T. Suppose you had American gold in place of greenbacks, would the shopkeepers take that?

P. Not generally; but I could find ten people who would, to one who would take greenbacks. Only a few special dealers would buy the greenbacks: almost any banker or large shopkeeper would take the gold.

T. Without discount?

P. With a very trifling one compared to that of the greenbacks.

T. Why?

P. Because within a block, somebody would be ready to put the gold into the melting-pot and use it for making jewelry or gilding or something of that kind; or the English mint would take it and coin it into their money. But nobody could do anything with the greenback except send it to America and wait for the gold, and pay expenses both ways.

T. Well then, it looks as if paper money never could be quite as good as gold money, doesn't it?

P. It can't be for foreign trade.

CHAPTER XXII.

MONEY—CONTINUED.

Some American Experience.

Teacher. Sometime back, when you said that during the civil war, greenbacks became worth only forty cents on a dollar, did you mean that if, when the war broke out, a man owed another a dollar payable in two or three years, he could then make him take forty cents for it?

398. How paper
money cheated
creditors. *Pupil.* That's exactly what I mean. It was just what hosts of people did, and what hosts of people want to do again by getting a chance to pay irredeemable silver dollars where they have borrowed gold ones. During the war the transaction was somewhat disguised by the forty-cent pieces of paper being each marked a dollar, and people began taking them before they began to depreciate, and it was not the fashion to speak of them as going down, but of gold as rising; and what was more important, people put up with it all cheerfully, so as to enable the government to use the bad money to carry on the war.

T. But why did the government make bad money?

P. Partly because our rulers at that time had had little occasion to study finance, and knew no better. Government needed money at once to pay for guns and uniforms, and all expenses of the army, rather than go to the delay of borrowing. So they thought it the simplest thing to issue promises to pay, which were our present greenbacks or their ancestors.

T. But if this money was legal tender, people had to take it, so how could it get bad?

399. How paper money raised prices. *P.* People did not need to sell things for it unless they got their own prices. Therefore, as government kept on making more of it and people began to lose confidence in it, they put up prices, including the price of gold, so that a man who wanted a gold dollar to pay a debt in Europe, soon had to pay for it over two dollars and sixty cents in greenbacks.

400. "Never mind Europe." *T.* Is enough money needed for foreign trade to make much difference?

P. In the years '93 and '94 it made a difference to the American people of a seventh of all their property—three times as much as the civil war cost—about ten thousand million dollars—nearly a hundred and fifty dollars to each man, woman and child in the United States.

T. How could that be, when lots of men, women and children never had a hundred and fifty dollars?

P. A good many of them might have had it in wages, in those years, who didn't get it because our money wasn't good enough for all foreign purposes. But of course I spoke only of the *average* loss—some men lost millions, many men lost thousands, nearly every laborer in the land lost a lot of wages, but perhaps a few people lost nothing, and some even gained—a few largely. Yet for years after, the mere fear of ignorant tampering with money, kept people afraid of enterprises, and business dull in consequence.

T. Explain all that, please. Begin at the beginning. Our money seemed good enough at home, for more than twenty years before '93 you could get a gold dollar for a paper one or a silver one. Why wasn't it good enough abroad?

P. It wasn't good enough abroad or at home either, because people were afraid that in a short time they could not get a gold dollar for a paper one or a silver one, and ran business at very low pressure in consequence.

T. Why did they fear that?

401. Effect of money not payable in gold. *P.* Because very few of our paper dollars are actually made by law payable in gold:

most of them are payable either in silver or in "coin", which is either gold or silver; and there got to be so many of these dollars out that people began to fear that if any mishap like a war or a panic should reduce the government's revenue, it wouldn't have gold enough to be able to pay such paper dollars in anything but silver. And as none of the silver dollars are made by actual law payable in gold, and as we might perhaps not be able to get gold enough to pay them if they were.

T. What harm would it do if we couldn't?

P. Why, our silver dollar is only token money. It really contains only fifty cents' worth of silver, and if our paper money were redeemed only in it, and it were not redeemed in gold, our silver dollars might easily go the way the greenbacks went during the civil war. We're really saddled with two kinds of doubtful money.

T. But why is there only fifty cents' worth of silver in the silver dollar?

P. Because when the amount was settled upon, silver was worth much more than now—the amount put in the dollar was worth about a gold dollar then. But since then, especially from '79 to '93, the production of silver has been greater than that of gold, and the price has come down with a run.

T. Has great increase alone lowered the price of silver?

P. No: there has been a great decrease in the uses for it.

T. Am I to understand that when there's a great deal of anything, or people have little use for it, it is cheap?

P. Yes, that is plain; what people can't use, they'll sell low.

T. Well, what was the great decrease in the uses for silver?

P. Soon after the uniting of the German states into an empire in 1871, the empire wanted to make a new uniform money system to take the place of the old differing systems of the various kingdoms, and it concluded to make people pay their large debts only in gold. So a vast amount of old silver coin was thrown out of use, and put upon the market merely as silver. This made

silver so cheap that soon Belgium, Holland and France stopped the yearly increase of their silver money, which they had been making for a long time. That left still more silver in the general market.

T. Why did they do that ?

P. To keep out of the very scrape that we ran ourselves into, in the panic of '93 by not doing it.

T. What was that ?

P. Having so much depreciated silver coin on hand that the danger of not being able to redeem it in gold brought on a terrible commercial panic.

T. Did anything else, soon before that time, go to make silver cheap ?

P. In 1873, some of our own wisest statesmen, anticipating the wisdom of France, got a law passed discontinuing the use of silver for payments above five dollars.

T. But did that throw much old coin on the market ?

P. No: we were not using much, but our example added force to the examples of France and Germany. In June, '93, India, the greatest silver-coinage country in the world, stopped coining silver, the price touched its lowest point, and soon a panic was upon us.

T. But when the price of silver came down so, why didn't our government put more of it in the dollar, so as to keep it worth a gold dollar ?

P. It is always hard to get government to do a new thing, because so many people have to get together and agree, and in this case people interested in silver-mining opposed it.

T. Why should silver owners have opposed using twice as much silver for a dollar ? Wouldn't it increase the demand for their metal ?

P. For one reason: they thought it better to work for the repeal of the law passed in 1873 which had diminished the use of silver as money, and so had diminished the demand for their product. So they wanted silver made again legal tender for all debts, large and small.

T. Well, in spite of all we have seen, did they succeed in getting their light-weight dollar made legal tender

403. Why coins were not made heavier.

again, after silver's legal-tender power was taken away in '73?

P. Yes, in '78 they got a law passed making the light-weight dollars legal tender, and requiring the government to coin from \$2,000,000 to \$4,000,000 of them a month. Government received them for taxes, but was not under obligation to redeem any not needed for taxes. In 1890 the coinage was made to depend, after July 1st, '91, solely on the government's need of money, but the treasury was obliged to buy four million five hundred thousand ounces of silver a month, whether it coined the silver or not, and to issue the "silver certificates" in exchange for it. These too are receivable for all public dues, but are not legal tender, tho they are redeemable in silver dollars, which are legal tender.

T. But is not making coin worth but fifty cents, legal tender for a dollar, swindling creditors just as badly as they were swindled by the forty-cent greenback during the civil war?

P. It would be if the coin was worth only fifty cents, but it is token money (396) for a dollar, and as long as redeemable, is of course worth a dollar.

T. But, as you have said, it may not always be deemed, so why was not whatever silver had to be coined, put into dollars heavy enough to be each worth a dollar?

P. People did not all know the dangers of light coinage, and some who did would gladly have risked them and exposed the whole country to them for the sake of selling their silver, and attributed the panic to thousands of other things; they even hired pamphleteers, speakers and newspaper writers to befog the people: they thought they could get a light-weight dollar made legal tender easier than one of full value.

T. But how could they get *enough* people to vote for such a dangerous thing? Is the majority so venal and ignorant?

P. When questions are new, majorities are naturally apt to be ignorant, and in this

405. The rapacious fooling the ignorant.

case they were fooled by the argument that cheap money is good for the poor man—that he can get more of it for a given amount of labor; and it has been alleged (some careful observers say falsely) that people owing debts hoped to pay them in light-weight dollars, which, if the government would not redeem them, could be had for fifty cents' worth of work or product.

T. Well, isn't all that true?

P. Certainly; but if one man gets the cheap money easier, other men get it easier too; in other words, he has to pay it out easier—just as much easier as he gets it. So he gains nothing.

T. Don't some people lose?

P. Certainly: it works like such other schemes as scamped labor (174) or mistaken taxation (563). All those who produce goods at first hand, like farmers and miners, get money easier only for their own work, but they have to pay it out easier for all work which they buy that has previously gone through many hands.

T. Give me an illustration.

P. Take even a thing a man helps produce himself. Suppose, under cheap money, a copper-miner wants to buy a copper kettle. True, he gets an inflated price for the amount of copper in it, but he has to pay back the same inflated price for that amount of copper, and, in addition, to pay inflated prices for carrying the copper to the smelting-furnace, rolling-mill, kettle-factory, wholesale dealer, retail dealer, and back to the user. Moreover, he has to pay inflated prices for every mechanic and exchanger who touches it on the way. In fact, he comes out worse: for inflated currency not only always inflates laborers' wages, but half a dozen profits on everything on its way—from the farmer or miner or lumberman, through the manufacturer up to the retailer, so that when the laborer takes his inflated wages to buy his supplies, he finds them inflated vastly more than his wages are. Hence the people who agitate most for rag money and light money are the very ones who would suffer most from it: a laborer gets an inflated price for his own one process, and has to pay inflated prices for

a dozen. The case is something like that of scamped labor (174).

T. But if cheap money makes all these people pay more than they get, who makes the excess—whose is the profit?

406. Who profits by light-weight silver? *P.* It's pretty hard to follow; but in the case of silver, apparently some of it would have to go to the inflated profits of silver producers, and certainly much of it goes to the employer and the money-changer—just the very people that a dishonest voter would think he was going to cheat by paying his debts in cheap money. The employer who pays out a thousand dollars a day, would seem likely to benefit more by cheap money than the man who pays out only two or three.

T. But who, after all, are the people in debt, who can cheat by paying in cheap money? Are they generally ignorant voters?

407. The poor are not the debtor class, *P.* No: that's another place where the ignorant fool themselves. The people in debt are of course those who have property enough or character enough to be able to get credit.

T. Do you think that that class has furnished most of the votes for cheap silver?

P. Probably not: most of the votes for cheap money and for all other attempts to make something out of nothing, come from the ignorant and irresponsible people who are always in poverty, and always ready to listen to any deceptive promise of a short cut out of it, like socialism or communism or magical taxation or cheap money.

T. Was there any other argument that got votes for making light-weight silver dollars legal tender?

P. Yes, it was argued that silver is naturally the money of the poor because it is cheap, and gold the money of the rich.

408. nor the class that handles least gold. *T.* Is there any truth in this?

P. No: nor would it be of any consequence if it were true. It is simply an appeal to blind prejudice. As a matter of fact, while poor people have to buy for cash, people rich enough to have

bank accounts usually buy on monthly or quarterly account, and usually pay their accounts and all considerable debts with checks, and their small ones in silver change; it is quite probable that they do not use as much gold as people a shade worse off.

409. The Panic of '93. *T.* Well, now that you have explained the making of silver legal tender again, and coining more of it, and the dangers of doing so, tell me how all that brought about the panic of '93.

P. The silver was paid for in notes from the treasury, which were promises to pay, and which the government might redeem in silver, and there were also certificates issued by the mint, that it had received and would pay back any silver dollars people might have been tired of carrying around and had brought to it (404).

T. Were these treasury notes and silver certificates good money?

P. Not necessarily, but for the time they were; because even if the government paid silver dollars for them, it was ready to pay the silver dollars in gold.

T. Then how did the trouble come in?

P. There got to be so many of the treasury notes and silver certificates that people grew afraid that the government would not long be able to pay gold for the silver dollars the paper represented.

T. What was the first noticeable effect?

410 (a). *Begins with alarm in Europe.* *P.* People in Europe who owned our bonds and stocks, got frightened lest soon they might not be able to get gold for them, and began to send them here for sale.

T. What do you understand by "people in Europe who owned our bonds and stocks"?

P. People there who invested money here with our corporations, to build railroads and open mines and do many other things, or who lent us money to carry on the War for the Union.

T. Well, when they got frightened lest they should be paid in silver, and sent the stocks and bonds back again to be sold, what was the effect?

P. A large part of the money paid to the brokers for

the bonds was treasury notes and silver certificates. These would not be taken in Europe, so the brokers went to the treasury for gold. People here soon began to join in the fear of the foreign bondholders that government could not continue to pay gold, and, remembering the war experience with the greenbacks, began to expect that the silver dollar and most of the government paper money would fall in value so that a man with a dollar due him could really get but fifty cents.

411 (b). *Business suffers.*

T. What was the effect on business?

P. It made business dull, loans difficult, and money scarce. A large share of business is done on borrowed money and credit sales, and people were afraid to lend a dollar or give credit for one, when there was a big chance of getting only fifty cents back. This led to the stopping of many works, shutting of many mills, and dullness among the dealers. All this threw many people out of employment.

T. Couldn't they have lent gold and sold goods, under an agreement to get back gold?

412 (c). *Kansas tries a new way of "bleeding."*

P. Yes, but people won't bother with such details in ordinary transactions, and moreover, the State of Kansas once declared such agreements illegal, and other states might do the same: so people did not like the risk.

T. Was there any other reason why people were afraid to loan?

P. Yes, when business is bad, people who really want to pay back just what they get, may not be able to.

413 (d). *Hoarding begins.*

T. You said not only that business was dull, but that money was scarce. What did you mean by that?

P. That many people getting money in hand, did not put it in business or in the banks, where it could be lent out, but locked it up. They were afraid that the banks might be able to get back only light-weight silver dollars where they had lent gold ones, and would break; and people also feared that if they did not put the money in banks but bought property, if business got so disturbed

by poor money, the property might shrink in value so that they could not get the money out again.

T. But isn't it merely the money of the rich that would go if the banks fail?

414 (e). The banks and the poor. *P.* By no manner of means. A large part of all the money in banks is in the savings-banks, and that is almost entirely the money of the poor (245).

T. Does popular fear for the safety of banks and investments grow with what it feeds upon?

P. Always until it becomes a regular panic, when people are so afraid of a fall in prices that they begin to throw away their stocks and bonds for anything they will bring.

T. Well, what stopped the panic of '93, in which people threw away their stocks and bonds at such sacrifices?

415 (f). Cleveland stops the panic, *P.* The president called a special session of congress, and, after great trouble, got a law enacted repealing the requirement passed under the previous administration, that the treasury should buy four million five hundred thousand ounces of silver a month.

T. But as that silver was to lie idle in the treasury, what harm could it do?

P. It was paid for in notes of the treasury, which were indirectly redeemable in gold (404, 409), and each month's purchases of silver added to the amount of these notes and, consequently, to the danger that they would not be redeemed. Besides, our going on and buying a lot of silver that we could make no use of, showed our government to be controlled either by lunatics or by men who would stop at nothing to sell their silver, and this did as much to hurt our credit and lead the Europeans to sell our securities, as did the mere fear that the treasury could not pay gold for all its notes.

T. Did stopping the silver purchases stop the panic?

P. Yes. In spite of the blows business had been stunned by, within three months people increased the money in the national banks ten per cent. from their hoards, not to speak of what went into savings-banks, state banks, and private banks; but even after President Cleveland

stopped the '93 panic, business did not revive for a year or more, until he had been obliged to buy gold to pay government notes with, and pay for it in government bonds, and had satisfied people that he would do so whenever necessary. Then factories started up, wages increased, wheat and cotton advanced in price, and everything looked hopeful.

416 (g). *but at heavy cost.* *T.* But wasn't it expensive for President Cleveland to redeem the token-money with gold bought by government bonds?

P. Yes.

T. Then why did he do it?

417. Government Banking. *P.* Because the notes were out, and congress has not had sense enough to pay them off and burn them up. Consequently when anybody wanted gold for foreign shipment or the arts, instead of going to a dealer for it, and paying a little commission, he went to the government and got it without commission—that is to say, at the expense of all the people. In other words, it is at the expense of the people that the greenbacks are kept in circulation, in order that government may do without charge the business of the very "goldbug" that the ignorant voter so hates.

T. But does the law directly oblige the government to do all this brokerage business?

P. Perhaps some of it might be avoided.

T. Then why is it not avoided?

P. Because it is much less expensive to do it than it would be to repeat the panic of '93. We had to pay for letting people who had silver for sale, fool ignorant voters into the belief that if they would only use half the value of silver in a dollar that they did of gold, they could have twice as many dollars and all of them just as good.

T. But how long did this hopefulness occasioned by Cleveland's policy, continue?

418. "16 to 1." *P.* Until the silver men again began to agitate for the presidential election of '96, and to demand unlimited coinage of a legal-tender dollar, whose weight should bear, to that of a gold dollar, the

ratio of “16 to 1.” This they made their campaign motto. The ratio of actual value was about 32 to 1. Fear of the success of this scheme made things dull again.

T. What was the effect of their defeat?

P. Confidence was restored, and the country entered upon the greatest period of prosperity it has ever known—one that even the Spanish and Philippine wars could interrupt but for a moment.

T. But did the defeat of the silverites in '96 restore confidence immediately?

P. Not immediately, because the treasury gold for redeeming silver dollars remained for some time scant, and, with the laws so indefinite that the government might be thrown upon a silver basis by any great financial disturbance, such as those Cleveland had issued bonds against, people felt afraid to invest dollars worth gold, in enterprises that might pay them only dollars worth silver. So business continued dull until 1898.

T. What awoke it then?

P. The enormous mechanical genius of our people had been gradually enabling us to send Europe many manufactured articles cheaper than they could be made there, and——

T. But stop a minute. Doesn't our high tariff make prices here higher than in Europe?

P. Yes: while our manufactures are selling to Europe at low prices because they must compete there, they sell here at high ones, because the tariff shuts out European competition, and puts the difference collected out of our people, into the manufacturers' pockets.

T. What becomes then of the elaborate theory you worked out when we were treating of distribution—that competition and weak producers would keep prices down?

P. Here comes in the beauty of “Protection”: to the extent of the duty, and at the expense of the rest of the people, the government “protects” the manufacturer from the necessity of competition, and the danger of incompetency; but at the same time it “protects”(?) the

public from the *advantages of competition* (250-5) and makes it more open to the dangers of incompetency.

419. Improved trade-
balance supplies gold. *T.* Very well! Go on, please, from where I interrupted you, and explain how business confidence began to return in 1898.

P. Despite the dangerous state of the law, two causes sent us enormous quantities of gold: our manufacturers had begun to sell increasing quantities in Europe, and we had enormous crops in '97 and '98 which a scarcity in Europe compelled people there to pay us high prices for. These agencies filled our treasury so that it seemed safe against any accident in sight.

T. But suppose our crops were to fail for a couple of seasons, and Europe have good ones, or find good ones in Asia, Africa or Australia; and suppose, too, that Germany, with her splendid technological education, were to drive our manufacturers out of Europe, where would our gold-supply be?

420. But that cannot
be depended upon. *P.* It would probably run down to the point where Mr. Cleveland had to sell bonds to increase it, and we might be rushed again to the brink of national bankruptcy—or over the brink.

T. What is now our defence against that?

P. The Act of March 19, 1900, which declares it to be the country's policy to pay gold, and provides by legislation the means for doing it which Mr. Cleveland took the responsibility of providing himself.

T. Well, if we're all right, then, under that act, what's the use of spending so much time over these questions?

P. In the first place, we're not all right. Tho that act declares it the policy of the country to keep all its money on a par with gold, it does not prescribe any method for doing it, or put the responsibility for doing it on anybody's shoulders; it leaves room to pay in silver current expenses of the government averaging over \$1,500,000 a day, and \$700,000,000 bonds, principal and interest, and fastens no responsibility to redeem that silver on anybody. A secretary of the treasury could do it if he wished, or find abundant pretexts for not doing it. A president could order him to do it or not to do it. What

is of more importance: any declaration of congress can easily be set aside by a future congress, if elected by the people to do so. Despite the Act of March 1900, the Democratic nominations later in the year threatened as much as those of 1896.

T. Was this silver craze the first time that people have attempted to get rich in some such way?

421. Light-weight
silver money no new
scheme.

P. No: the ignorant are all the while trying some such deceptive scheme for getting rich by magic. Soon after the war, when it was proposed to pay off the greenbacks, and even when the confidence that they would be paid had brought them back to even value, from a value of forty gold dollars for a hundred greenback ones, there were still people who objected to having the greenbacks paid, and wanted enough more issued to fill every man's pockets.

T. But how did these people expect to get the greenbacks into every man's pockets? Why should they not be as well off if they would set to work and get a corresponding amount of gold into their pockets?

P. Work did not enter into their calculations. They had a thousand schemes, all of which disguised some plan for really making the government *give* greenbacks to all who wanted them; and of course they did not realize that doing so would make the greenbacks worthless like the Colonial and Confederate money.

CHAPTER XXIII.

MONEY—CONTINUED.

Needs for the Future.

Teacher. What kind of government is most apt to debase currency ?

Pupil. Despots have sometimes made themselves rich by debasing the currency and making the people take it at full value; but not often, if ever, have a people thought, like many of ours, that they could get rich by debasing their *own* currency.

T. What is the best safeguard against all such schemes among the people ?

422. The best safe-
guard. *P.* Not to have ignorant voters.

T. Do you believe that many men in America will ever be deprived of their votes ?

P. It's doubtful.

T. How then do you propose to work your scheme of having no ignorant voters ?

P. By educating them, so there will be no ignorant.

T. And what most needs to be taught about money ?

P. That there is no way to make a dollar good for a hundred cents' worth of anything else, but by putting a hundred cents' worth of something into the dollar itself, or by being ready at a moment's notice to give a hundred cents' worth of something for it.

T. Are these methods equally convenient ?

P. No, it is much more convenient to handle considerable amounts in paper than in coin, or to handle a

silver dollar holding only fifty cents worth of silver, than to handle one twice as heavy.

T. Are the two methods equally safe ?

P. No. Perfect safety lies in having the actual value in the dollar itself: then no misfortune or foolishness or rascality can prevent the value being there.

T. What then, after all, is the only safe material for money ?

423. The safest money.

P. There is no *absolutely* safe material, because new discoveries may reduce the value of gold itself; but gold is the safest there is, and safe enough for ordinary practice.

T. But, as already suggested, wouldn't that make handling large sums very inconvenient ?

P. So inconvenient that the world is agreed to sacrifice ideal safety for real convenience.

T. Balancing the convenience of paper money or light silver money, against its dangers, what seems to be the best money ?

424. Paper better than light-weight silver.

P. That depends on a good many things. The silver has some intrinsic value, which the paper has not, and it has vastly more durability; but on the other hand the lack of durability in paper does not count for much, as it is easy to issue a new note for a spoiled one. But the very fact that silver has some intrinsic value, confuses ignorant people, and even tends to make them dishonest. Paper is really much more honest money than silver: nobody can take it for anything which it is not.

T. Well, do you think the danger of its becoming irredeemable, should drive it out of use ?

P. The use of it in this country has brought great losses and disasters, but the country has learned a great deal from them. During the past few years, the people could not have been fooled with paper as they have been fooled with silver. Paper has not brought any trouble in England in recent times; but there, ignorant people are much more under the influence of people of education than they are here, and England has no paper money under twenty-five dollars.

T. What is the advantage of that ?

425. Safety in large bills. *P.* Probably if there had been no greenbacks under twenty-five dollars, most of the people who made trouble about them after the war, would have known so little about them that there would have been no trouble. Even if the money-schemes for making everybody rich, are started for selfish reasons by able men, and even if such men are able for a time to fool a few other able men new to the subject, the schemes depend for their principal following upon the people who have too little judgment to see twenty-five dollars often.

T. What then is the only thing to make our silver dollars safe under all probable conditions ?

426. Only safe silver dollar. *P.* Put a dollar's worth of silver into the silver dollar, and call in all those which contain less.

T. Why not simply take away its legal-tender character ?

P. That would contract the currency and destroy confidence, so that many people could not get money enough to pay their debts, and much bankruptcy would follow.

T. Why, how would it contract the currency ?

P. By two temporary strictures: first, people would be slow to accept silver dollars or silver certificates: so they would go to the treasury for redemption. Next, as the treasury is not at all likely to have enough other money to redeem them, it would have to pay out bonds to meet part of them, and the currency it would take in place of bonds would make just that much less for business use until paid out again.

T. How would it destroy confidence ?

P. The treasury gold-supply being gone to redeem the silver currency, the treasury would be in the condition of a man without money in his pockets or in bank. He might need it before he would have time to borrow it, and would probably have to borrow at heavy expense if everybody knew his plight.

T. Why not then redeem the silver currency in new legal-tender greenbacks ?

P. That would meet most of the difficulties, if government had gold on hand to pay the greenbacks as wanted.

T. What difficulty would it not meet?

427. Objections to all government notes. *P.* The use of greenbacks keeps the government in the banking business, and as long as it is, the money system of the country is under the control of politics, and subject to the attacks of the politicians which have kept business disturbed ever since government went into that business during the rebellion.

T. Well, how are you going to get government out of the business without retiring its money, and so contracting the currency?

P. There is no objection to the government continuing to coin money (if it coins only honest money) as the constitution requires: so it's only necessary to provide for that portion of the money which is not coin, or, at least, not honest coin.

T. But why won't the government mints supply all the money needed?

428. Yet coin insufficient. *P.* For several reasons: in the first place, prices depend on the amount of money in circulation, and are now fixed on a basis of much more money than the coin; to get back to coin by retiring the other money, even gradually, would contract prices so that a corporation having to pay a million dollars' worth of bonds fifty years hence would find a million dollars of its assets at present values, slumped to probably a third of that price, while its debts wouldn't shrink at all: that means inability to pay them.

T. But instead of getting down to the coin we have, why not let government coin more as fast as it retires light silver and its other bad money?

P. The demand for so much more gold would raise its price, so that the farmer and manufacturer and miner and laborers of all kinds would have to give more of their products to enable the government to get gold—taxes would rise.

T. How about the elasticity of a coin currency?

P. An objection resulting from, or at least closely connected with, the last. It being impossible, especially suddenly, to buy much gold without raising the price—it is, of course, impossible to throw much onto the market, in coin or in any other shape, without lowering the price: therefore currency only in coin is very inelastic. So it would be very hard to keep a coin currency just equal to the varying needs of business.

T. And as to the economy of a coin currency?

P. To have enough gold for active times, would mean to keep it idle, and so lose interest on it, in inactive times. Business requires an elastic currency: while Nature and men are taking their winter rest—no crops produced, little building and mining, little travel, there is little business, and little currency is needed. In the spring, as things wake up, more is needed, and as fall approaches, and the farmer has to pay labor to gather his crops, the dealer has to pay the farmer, and the railroads and merchants are busy with the crops, a great deal more money is kept in use. A mere coin currency can't expand and contract to meet these conditions.

T. Well, as an exclusively coin currency is open to so many objections, how are they to be met?

P. By a paper currency, of course.

T. But the burden of your song has been that a paper currency is dangerous.

P. Not if you can get the people generally to realize that it is: because then it would be taken care of.

T. How?

P. A paper currency is safe if its promise to pay is certain, and dangerous only if, as in the civil war, it cannot be redeemed, when required, in coin.

T. But why use paper at all? Why not let the coin go into use at once, instead of keeping it to redeem the paper?

P. Besides the inelasticity just discussed, experience has shown that it is safe, even in ordinary banking, to

429 (a). and inelastic,

430 (b). and eats up interest.

431. Good paper currency preferable.

let out four dollars of paper for every dollar of coin in hand. If people know that the banker has a reasonable amount of coin and other value on hand to meet the paper, not all of the paper would ever be presented for redemption at once. People are like the Dutchman who got frightened and went to the bank for his money. As soon as it was offered him, he told them to keep it: "Ven you got him, I no vant him: ven you don't got him, I vant him."

T. But do you mean that it is safe for a bank worth a hundred thousand dollars to issue notes for four hundred thousand?

P. Of course not: nobody should have out obligations greater than assets, but rather considerably less, to leave a margin for accidents. But if a bank has out four hundred thousand of notes, and no other obligation, it can safely keep all of its property above one hundred thousand, in bonds or mortgages or good commercial paper or any other good security that will pay it interest.

T. But what makes it worth its trouble to issue notes, if it can make money in other ways?

P. If it can lend four hundred thousand dollars, and get interest on it, by keeping one hundred thousand dollars idle in its vaults, that one hundred thousand will really be earning fourfold interest; and that, with the interest on the three hundred thousand in securities, makes the bank get interest on seven hundred thousand while it has a capital of only four hundred thousand. Out of this, however, it must pay expenses, and unless it manages well it may have no profit after all.

T. Why then shouldn't all the people participate in this advantage, in the shape of lowered taxation, by keeping the government in the banking business of issuing notes?

P. For the same reason that, as we saw, 432. But not from government. (191, 192) government should not be put in the manufacturing business. It would leave to politicians with pulls, the work that should be done by men fitted for it by nature, and put in place by natural selec-

tion; and it would take away from the community the enormous advantage of having its banking done by such men under the stimulus of competition and personal reward.

T. Well, whether government does it, or whether private individuals do it, where comes in the elasticity of the paper currency that made you argue in its favor?

P. Of course the bank has got to lend this currency in order to get interest on it. When the country is very busy, people will borrow it all, when business is dull they will not need it, and will pay their maturing notes, and the bank will have to take its currency back.

T. And lose interest on it, and on its idle coin too?

P. The paper costs nothing.

T. But hasn't the country tried private banknotes, and found them wanting?

P. Yes: but largely because they were
 433. Essentials of banknotes. "Wild-cat" money. ~ issued on the authority of individual states, and especially of some of the newer states where political organization was very primitive, and the regulations were primitive and primitively enforced.

T. But what's this about regulations? Hasn't a bank a right to sell or lend its paper to whomsoever will take it?

P. Nobody has any rights against the general good. If anybody proposes to put paper in general circulation, it is essential that it should be done under conditions to protect against general harm. For that matter, there are plenty of regulations regarding individuals' ordinary business notes.

T. Well, what harm was done by the private banks under the imperfect conditions you allude to?

P. In the first place, a great many notes were spread over the country without enough coin and other assets behind them to make them safe.

T. And in the second place?

P. Many of the notes from the poorer and more provincial banks were so poorly engraved and printed that it was easy to counterfeit them.

T. Can you give an illustration of the results?

P. Nobody knew whether most of the money offered him was good or not. People were constantly getting “stuck” with bad notes, as they sometimes are with pewter coin. It became worth while to issue frequent pamphlets—“Banknote Guides,” “Counterfeit Detectors,” etc., etc., and every shopkeeper had to keep one, and before accepting money that he did not know well, turn to his pamphlet for description and advice.

T. What has become of all these notes now?

P. One of the good things blown by the ill winds of the great civil war and its depreciated greenbacks was that they blew the old rag money out of circulation. Everybody understood a greenback, it was the same thing the country over—well made (even if ugly) and hard to counterfeit. Tho it was worth at one time but forty cents on a dollar, people knew what it was worth without turning to a “Guide” or “Detector,” and soon it drove the private rag money out of existence.

T. That, by the way, is an apparent (but only apparent) contradiction of the famous “Gresham’s law,” which you can look up if you want to, but which we can’t go into now. Well, as even the greenbacks don’t seem good enough for your taste,—as cultivated by our recent studies, what must we do to please you?

P. In the first place, give me plenty of money—more even, when business is brisk, than all the gold coin in the country, but don’t let government do it.

T. Who shall?

P. Any body who wants to, under regulations to be furnished by the United States Government, not the state government, so that the money will be the same throughout the country.

T. And what regulations will you have?

P. First, such as will make it difficult for anybody not of proved character and ability, to start a bank of issue; second, that no more notes shall be issued than there are good quickly-marketable assets on hand for redemption of, at least one-fourth of which assets shall be gold coin; third, that

these notes shall conform to some definite standards of workmanship—perhaps that they shall be provided by government; only, as we have seen and shall see further, we need to be very cautious in what we trust government to provide; fourth, that government examiners shall visit the banks, unannounced, at frequent intervals, to see that the regulations are complied with; fifth, that such penalties shall follow infringement of regulations as to make infringement extremely improbable.

T. How are you sure that such arrangements will give you enough currency, and not too much?

P. Humanity is not wise enough and careful enough yet to make us sure that any arrangements are going to work perfectly; but under those suggested, the law of demand and supply would probably keep the currency as nearly adjusted to requirements as anything is at the present stage of human progress. If there were not enough, the demand for more would make profits great enough to tempt more people into issuing it; and if there were too much, the portion uncalled for would be retired, and the capital behind it be turned into things in more demand.

T. But under present arrangements why can't banks issue more when there is a demand for it?

P. The only thing back of our present banknotes is United States bonds, which are admirable as far as they go, but they don't go far enough—there are not enough of them, and they pay very low interest; besides, if a bank wants to enlarge its circulation now, it must go through an enormous amount of red tape, including buying a lot of government bonds, and sending to Washington for notes, and waiting till they are engraved.

T. What do you propose to substitute for United States bonds?

P. All securities in the country that an able commission would pronounce safe for the purpose (they wouldn't be a very large proportion of the whole), such commission to revise its list at frequent intervals, and banks to shift their securities accordingly.

T. Then how would you get your notes into circulation?

P. Let any man who has the securities, take them to bank and borrow banknotes on them up to within a reasonable limit of their face value; then when the squeeze is over, he can take the notes back, and get his securities.

T. Why wouldn't commercial paper be just the thing to base the notes on? There's more of it when business is brisk, and less when business is slow.

P. It would be very difficult to be sure that such paper, when offered, was for actual goods sold, and an elastic currency would lead to inflation of values unless it were carefully limited to a basis of actual property. So far as currency might be based on accommodation paper, it would, of course, be pure inflation, and might go on until it should collapse like an exploded balloon. But even if it were based on genuine commercial paper, the producer of raw material might get currency on the note given him by the manufacturer, the manufacturer might get it on his jobber's note, the jobber on the retailer's, and the retailer—a grocer, for instance, on the consumer's; so the same raw material might originate currency four times—on the notes received from the raw-material man, the manufacturer, the jobber and the retailer; value added by the manufacturer might originate currency three times—on his jobber's note, and the retailer's and the consumer's; the jobber's service, twice; and the retailer's, once—an aggregate of ten issues of currency where there would be a sound basis for only three actual values accumulated—the raw material, the manufacturer's, the jobber's. It seems therefore that a safe issue of currency based on commercial paper would be practically impossible.

T. Doesn't the retailer contribute a value too?

P. Only so far as concerns the consumer's actual enjoyment. Even if the goods are not—like food, actually destroyed, their commercial value as a basis for currency, is gone as soon as they are in the consumer's hands. Even if they endure, like furniture or jewelry, they at once become "second-hand."

436. The farmer's needs. *T.* How about the farmer's demand that he shall have a chance too, as well as the "bloated bondholder"—that currency shall be issued based on his farm, not merely on coin, or even on bonds that can be sold at a moment's notice on the stock exchanges?

P. His demand is counter to our requirement that the currency shall be based on quickly-marketable assets. His land, or even a mortgage on it, cannot be sold for full value at a moment's notice, if there should be a run on the bank to redeem its notes in gold.

T. Then how are you going to supply the demand for money in thinly-settled regions where there are no banks—where, according to stories we hear, a man sometimes rides around a whole day in a vain effort to get a fifty-dollar bill changed?

437 (a). Partly his own lookout. *P.* In the first place, the reason for lack of money in such regions, is generally (not always) the same as for the lack of it anywhere else—the people haven't the wealth to base it on, or the Ability to make the wealth—in fifty-dollar bills which they can't change, or in any other shape: the regions are generally poverty-stricken, and the attempt to give them plenty of money by putting a bankful of it among them, would do no more good than to put a bankful among the New York tenements: the people can't get the money unless they have something to exchange or pledge for it. Even if they wanted to mortgage their farms to a new bank, generally they couldn't do it because the farms are mortgaged already.

T. But aren't there places where people really have good farms and crops, but not enough money for ordinary needs? Don't silverism and greenbackism and the other moneyisms often develop in such regions?

P. Well, it would be odd if such regions had the resources to establish banks, and the need for them, and still went without them. It looks like one more form of the cry that assumes so many forms—for government to supply money to those who can't supply themselves.

T. But do you mean that the conditions I have described never occur—regions with pretty good natural resources—farms, mines, produce, and no money?

P. Perhaps the people may have resources, and yet not be enough up in financiering to keep a stock of money at hand.

T. Well, there do seem to be such cases: now what can be done for them?

P. I still insist that most of this call for *438 (b). Remedy for legitimate needs.* banks is simply a form of the incapable man's call for other people's money. Yet I do admit that there are places to which it would be well for banks elsewhere to send branches. That is actually done in some countries—in Scotland and Canada, for instance: a city bank will get a country storekeeper to start a little branch, supplying him with money and elaborate instructions based on experience, and such a branch is often a very good thing for everybody concerned.

T. Won't our new banks with \$25,000 capital fill the bill?

P. Apparently the serious want is in places too small for even them. Little agencies seem to be still wanted.

T. What would be the effect on our politics of a few of them wisely distributed?

P. Undoubtedly they would silence all *reasonable* calls for "more money."

T. Well, can't anything be done to facilitate that?

P. Yes—two things: enable banks, by law, to establish branches; and take off the taxation—from small ones at least.

T. Does the general government get enough from bank taxation to make it worth bothering with anyhow?

P. No: it's one of the pottering taxes that ought to be cleared out of the way. It yields only a half of one per cent of the national income.

CHAPTER XXIV.

PUBLIC WORKS.

Extra-Municipal.

Teacher. So much for Money. Now what was probably the next item of popular convenience evolved by government, and one over which government care is almost equally taken for granted?

439. Roads. *Pupil.* Roads of some sort; but as already intimated, the kind and degree of care that government should take of the new forms of roads—railroads and city railways, is open to much debate.

T. Very true. But let's start with a reminder of the immense importance of roads. Do you remember a very early and very authoritative piece of testimony?

440 (a). *As spreading civilization.* *P.* Yes: one from the Romans, who were the greatest road-builders, and—a very suggestive fact in the connection—the greatest spreaders of civilization the world ever saw before our own race took hold. The proconsul who was probably the most famous advancer of Roman civilization in barbarous regions, when asked what was the first thing he provided a new country with, answered: "Roads"; "And the next thing?" "More roads"; "And then?" "Still more roads."

T. Then as their importance bears on many civic questions, we will consider them more fully than some other topics at first seeming nearer the centre of civic relations. Now what did the Romans do in carrying out this principle?

P. Put roads through most of continental Europe

west of Russia, and even into Great Britain—many of which are highways of civilization to this day.

T. Were these private enterprises?

P. Much the reverse: they were primarily the work of military engineers to facilitate the movements of armies—good out of an ill wind.

T. As between private work and government work, what has been the general evolution of road-making by our race, in England and here?

P. At first in England, and after the settlement here, and in some rural regions to this day, everybody has had to give some days every year to road-making, or furnish a substitute. This was by degrees commuted into money, just as military service was (66), and road-makers were hired by the government.

441 (b). *Evolution in our race.*

T. Was passage free?

P. Yes, generally over roads thus made; tho as cities grew up, both in the old home and here, government not only itself improved roads between them, but also chartered private corporations to do it; and on these roads tolls were generally charged.

T. As the Romans were the best road-makers among the great nations, it may be interesting to note who are the worst.

P. "Our noble selves," unquestionably.

T. Why?

P. Expansion over great tracts of new country before good roads had time to grow up, and hence the habit of putting up with poor ones. Later, when we wanted better things, improvement has been much blocked by bad organization and corrupt government.

T. Government road-making, then, may be considered established. Now what is the bad American organization you alluded to?

442 (c). *Bad American organization.*

P. Road-making has been left too much to local control. Outside of unmistakable city and village streets (and possibly inside of them), it should be a state function; and I am not certain that it should not be a national function.

T. Why?

P. Because every important road must extend through poor and thinly populated towns and counties, as well as rich ones. The poor ones are not able to keep their roads up to a good standard, nor is it fair that they should; for they really do not use them as much as do the people of more populous adjoining towns. But the poor road-making thus forced on the poor towns is not confined to them alone, but tends to become the standard for their neighbors.

T. Do these causes operate more effectually with us than with other civilized nations?

P. Unquestionably, because our ancestral spirit of local independence—our desires to govern our home affairs ourselves, our objection to submitting them to the more remote state and national governments, is so strong that many consider it the very basis of Anglo-Saxon liberty. Even in such a town as Concord, Massachusetts, quite possibly the most enlightened town in the world (and consequently one of the most wealthy), part of a magnificent boulevard intended to run from one end of the state to the other was bitterly opposed because: "This town has always been able to manage its own roads."

T. But if the Anglo-Saxon local independence obstructs roads so much, why has England such splendid ones?

P. Because our English cousins are more thickly crowded, their roads are older than ours, and they are near such good examples in France and Switzerland.

T. Hasn't relative wealth anything to do with it?

P. It can't have much as regards our older and richer states: for they are rich enough; but our national wastefulness and extravagance have a good deal to do with it. Few things are more wasteful and extravagant than poor roads: in any ordinary civilized region, they waste more, over and over again, in horseflesh, wagon wear, and time of man and beast, than good roads would cost.

T. Are tolls generally charged to this day?

P. Not generally, tho there are some survivals. But

in most cases governments have abandoned the tolls on their own roads, supporting them by taxation, and have also acquired the private toll-roads by eminent domain, and thrown the toll-gates open.

443. Bridges. *T.* What has been the experience in this regard with bridges ?

P. Just about the same as with roads; yet the greatest and newest of the great bridges—the one between New York and Brooklyn, tho built by the city governments, still takes toll. But there is prospect of its speedy abolishment.

T. Is it fair that the vast majority of the residents of the Greater New York, who don't use the bridge half a dozen times a year, and hundreds of thousands of them not at all, should pay as much as those who use it twice or oftener every day ?

P. At first sight, not ; tho the argument carried out with stern logic, would put a toll-gatherer at every bridge in the country, and very few people want that done. As long as each man has a right to the free use of such a general and important public convenience when he wants it, as long as the cost for each person is a trifle, and the indirect benefit to every person, whether he uses it or not, is great, the question whether one man wants it more than another, is one of those trifles which the law does not bother itself with.*

444. Ferries and docks. *T.* Well, if government can provide a bridge, why not a ferry ?

P. Because a ferry requires infinitely more management.

T. But hasn't government ever done it ?

P. Yes, several times in Great Britain, and occasionally in Germany; only once or twice in America.

T. Are these ferries free ?

P. Some are and some are not. Boston charges for one, but runs it at a loss. Glasgow makes a big profit on hers. The one over the Thames at Woolwich is supposed to perform the service that bridges do higher up the stream, and like them is free.

* *De minimis non curat lex.*

T. Have the franchises (279) of American ferries generally been given away?

P. By no means: even in New York, where the exceptionally valuable street-railway franchises have been given away freely, the ferry franchises have usually been sold for terms of years to the highest bidders.

T. How have docks generally been best managed?

P. In Liverpool, Glasgow, Hamburg and many other European cities, they have been splendidly and profitably provided and cared for by the cities. There is not a city in the United States with decent ones. We shall see some general reasons for this inferiority later; but at best, docks are used by so small a portion of the people that they are not under as general criticism (459, 469) as most municipal conveniences, and their management is therefore peculiarly liable to be stupid and corrupt.*

445. Railroads.

T. Now to come to the modern modification of roads—the railroads,† can you name the four greatest nations in the order of the frequency, speed and comfort of their railroad trains?

P. It's not fair to compare the United States as a whole with any other great nation exclusive of its colonies, because most of the United States is very thinly settled. If we consider only the thickly settled parts of our own country, the order unquestionably would be: the United States, England, France, Germany, Italy.

T. What is the order with reference to degree of private ownership?

P. In the United States and England, the ownership and management are entirely private, in France the government owns part of the roads, and leases them to private companies, who run them; in Germany, where the government attends in a paternal way to more

* Treating ferries and docks as extra-municipal may need defence, but so would treating them as municipal.

† In treating this subject, I have been under great obligations to Prof. W. M. Daniels' "Elements of Public Finance," tho not as great as, perhaps, the concurrence of our views would indicate.

things than government does in any other great nation, it both owns and runs all the railroads; so in Hungary; and so also in Italy until the government sold its roads—partly because it recognized them as sources of political corruption. In short: the less government ownership, the better service.

T. How do you account for the great superiority of the American service as compared with the German?

P. Remember that we compare only the portion of the United States whose population is something like as dense as Germany's. In that portion, we surpass Germany, partly because of the great inventiveness of the American people, partly because of their

447 (b), because of greater tendency to move about, and having more money to do it with, but mainly by the fact that American railway officials are in the business to make all they can out of it, and are stimulated by fierce competition between themselves and between their road. On the other hand, the German railway officials are government clerks at salaries not apt to be changed, and with all the routine indifference that everywhere characterizes the government clerk with nothing to lose and nothing to gain.

T. How do government roads and private roads in the same state, compare in charges for service?

P. Statistics are scarce and somewhat unreliable, because of the confusion between passengers of different classes, and because it is next to impossible to tell what a government road really costs the people: fares may be eked out by taxation. Lately they appear to have been about the same in Germany as ours, and the government roads in Italy considerably higher.

T. Despite the frequency, speed and comfort of the trains on American railroads where population is dense, do they surpass the European roads as roads?

P. No: they are not, on the whole, as carefully built, or as safe to the passengers or to the people among whom they pass.

448 (c), American construction less thorough,
T. Do you think that has anything to do with the relations between the roads and government?

P. Not unlikely: governments are more in the way of looking out for the rights of the people in general than private corporations are, and are not as apt to consult economy; moreover, if a man gets killed in Europe, a government loses a soldier, and it can't spare soldiers: for all these reasons, a European government would be more apt than the American to put a bridge where a railroad crosses a driving-road, and to go through a town above the streets or under them.

T. And has this actually been the practice abroad more than here?

P. Vastly more: our murderous grade-crossings are almost unknown in Europe, and where they occur, there is more precaution and delay by closing gates than our people would stand.

T. Do all these cares for the public prevail in England as much as in Germany?

P. The construction of the roads, especially in the way of elevated tracks going through cities, and possibly at grade-crossings, is perhaps not as thorough in England; in other respects the care for the public safety compares favorably.

T. But is government ownership necessary to secure that?

P. No: good government can secure it, whether it owns the roads or not; it does secure it in England; and government is, on the whole, improving in doing it here.

T. What has been the great difficulty regarding rates of fare and freight in America?

P. The same probably, as with private roads everywhere: through rates between great cities served by several lines of roads, or by a water line as well as a railroad line, have naturally been lowered by competition, sometimes beyond the paying point. The roads have to make up for it by higher rates for the intermediate non-competitive points. Of course they are as apt—even more apt, to get these local rates above reason than to get the

449 (d). and incidentally less careful of safety.

450 (e). Freight discriminations.

through rates below it. Hence discontent that sometimes overlooks the difficulties of the roads, and hence grangerism and the call for government control, or even government possession.

T. What golden-geese-killing operations have the roads been led into?

P. Destroying the profitable part of their business by driving population from non-competitive points to competing ones. Mr. Stickney* says that between 1870 and 1890, in Illinois, Wisconsin, Iowa and Minnesota, the former class decreased in population, and the latter increased.

T. What complaints have shippers, besides discrimination between points?

P. A more arbitrary discrimination between goods, and through this means, as well as directly, between persons.

T. Of course all the complaints are used as arguments by the advocates of government roads. How would government ownership affect competition?

P. The argument is the same as the argument for trusts (262): the enormous waste of competitive advertising between competing roads, and the frequent duplication of management—several Able men doing work which, if the roads were under one management, could be done by one Able man, with clerks in the place of the others—the other Able men being released to increase and cheapen other production or develop new conveniences (208).

T. But is all this an argument for government ownership?

P. Not necessarily, but only for consolidation; and then come in all the monopoly arguments against that.

T. Is *general* extortion charged?

P. Yes, but on the whole, unreasonably: our freight-rates, despite our vast uninhabited stretches, are far the lowest in the world; and in our thickly settled por-

* "The Railroad Problem," p. 62, quoted in Daniels on Finance.

tions, our passenger-rates compare very favorably with all others; and moreover both rates are steadily declining.

T. How much of this is due to government regulation, and how much to the inevitable action of competition?

P. It is very hard to tell. With us government regulation is in its infancy, and has made mistakes. It has not yet always succeeded in getting its rates adhered to, and, as it has greatly insisted on rates in proportion to distance, regardless of competition at certain points, it has prevented the roads holding each other to agreements regarding competitive places which might enable them to be easier on non-competitive places.

T. But if government regulation has made a botch of it, and if government ownership would save the wastes of competition, why not avoid the questions that *regulation* has not succeeded with, take the roads by eminent domain, and come at once to entire government management?

P. It is by no means certain that government's efforts, tho not accomplishing all they aimed at, have been useless in leading toward the increasing lowering of rate; and botchy as the attempt at regulation has been, the attempt at the vastly harder task of entire management would probably be a botch proportionally great.

T. Why?

P. There are two hundred thousand people in the civil service now. The corruption involved in dealing out these places is still, despite all the efforts of the civil-service reformers, the chief obstruction to good government. The railroads employ four times as many men as the civil service: to make all these men government employees would make the corruption sixteen times as great.

T. How about their vote?

P. It would simply make the tail wag the dog: instead of the government managing the roads, the roads would manage the government. The present trimming for the

452 (g). Unsuccess-
fulness of govern-
ment regulation not
complete argument
for government
management.

“labor vote” is nothing compared with what would grow up for the consolidated railroad vote (481).

T. But why don't the railroads run the government now ?

P. Many people think they do—especially the state governments. But as long as the roads are in various hands, their interests are different, and they pull in opposite directions. Make a body of a million placeholders whose interests are identical, if they wouldn't have their own way in railroad management and everything else, to a degree that competition prevents anybody from having it now, it could be only because politicians no longer stand in dread of voters. The Italian government wisely decided, in the eighties, not to run the railroads, from experience of the resulting political corruption.

T. Who would officer the roads in such cases?

P. “Favorite sons” and “men with pulls.” The genius for railroad management that now fills most of the presidencies and superintendencies with men who began at the brakes, would have to give way to the genius for political pulls: the roads, the shippers and the passengers would suffer accordingly; and the taxpayer would have to meet the deficits.

T. What would be the effect on railroad salaries?

P. Probably what it has been on telegraph salaries in England. As soon as government control took the pressure of competition off, salaries advanced, deficits began, and the taxpayers had to settle them.

T. What would be the effect on rates?

P. They would be governed by political favoritism instead of the exigencies of business.

T. How about strikes as affected by government ownership ?

P. That is one of the most important points in the whole discussion. Of course a railroad is not like a factory, where Labor and Ability can have their quarrels without making the public suffer: if the factory stops, the public can get unmonopolized goods at some other factory, or for a time from the stock in the shops. But if there's a strike on a railroad, the public must

453 (h). “Labor”
under Government
ownership.

simply do without the service until matters are adjusted, and at great loss of money and convenience. This certainly gives the public, as represented by the state, a right to prevent quarrels between Labor and Ability from stopping the cars (45).

T. Well, does the exercise of that right involve government ownership?

P. Government ownership would certainly simplify the matter. We don't hear of many strikes in the post-offices: but they are much simpler affairs, and require a higher type of Labor. But if each railroad employee were a government servant, resistance to regulations, or refusal to work, would be flat rebellion, and then there wouldn't be as much question of suppressing it by force as there is about suppressing strike-riots now.

T. Well, is that what the advocates of government ownership of the roads want?

P. It is impossible to tell: at one moment they seem to be calling for it, not only in railroads but in all industry; and at the next moment they are crying out against the tyranny of it.

T. Well, uninterrupted service and prompt and unquestioned suppression of disorder are certainly great arguments for government ownership of the railroads; but, as I asked before, is good and steady service impossible without it?

P. It is one of the new questions that new conditions are constantly bringing up. There seems to be no reason, however, why the railroads should not contract with their men for definite periods of service or definite notice before quitting, and especially not to interfere with other men taking their places.

T. Seems to be no reason? Think again.

P. Well, it is true that the unions probably would not let the men make such contracts, and that if they were to make them, the men have no estates at peril for damages, in case they break their contracts.

T. But is there no honor among them to keep them to their contracts if made?

P. A great deal of honor—enough to sustain many of

them in any sacrifice to their unions; but that very feature of their honor tends to prevent it sustaining contracts with the companies.

T. Is that true of all classes of employees ?

P. No: the locomotive engineers naturally must be men of more Ability than the other laborers, and they quite generally stand by their agreements.

T. Do you mean to intimate that men of Ability have more honor than men without it ?

P. Not perhaps more inclination to do right, but at least more capacity to see, in spite of any appearances there may be to the contrary, that in the long run, honesty is the best *policy*; and of course these men of superior Ability have more capacity to keep them from the mistakes so often made in declaring and conducting strikes.

T. Well, justice being done, let's return to the subject. Can government do anything short of owning the roads, to insure service uninterrupted by strikes and destruction ?

P. There has been a great deal of talk of government's protecting the public by declaring conditions upon which Labor must accept employment under public franchises, just on the same grounds that it declares conditions upon which Ability must operate the franchises.

T. The proposition certainly seems fair. What are its details ?

P. Simply to make it the law that anybody accepting such service shall give some stipulated notice before quitting work, shall not interfere with anybody taking his place, and shall be subjected to imprisonment (fines are of no use against people who have no money) for violation or evasion of the law.

T. But isn't part of that the law now, and is even that part enforced ?

P. Yes, the law professes to protect the Right to Work, but it is not always enforced. Yet it does make a difference how a law is put, both in obedience and enforcement. True, there are now general laws against violence and destruction of property, and occasional

timid laws against interfering with the Right to Work, but probably there is no law against a laborer who is really a public servant, quitting his place without notice.

T. Would not such laws be counter to the XV. Amendment of the National Constitution prohibiting involuntary servitude?

P. No: because the men would enter upon the obligations voluntarily.

T. But would the companies get enough men under such laws?

P. Undoubtedly the labor agitators—especially those who make their living out of strikes—would in the first place bitterly oppose such laws; and if the laws were carried, would try to dissuade men from taking service under them. But the laws are so manifestly fair and in a good direction, that it is certainly worth while to attempt them.

T. But after all, whence comes in the state's right to regulate the roads?

P. The roads are the creatures of the state; whether the state owns them or not, they are natural monopolies, and can exist only by the use of the state's right of eminent domain: so the state has the right to prescribe the conditions of their existence.

T. But suppose a road is built without any understanding regarding rates, or, for that matter, *with* an understanding, has the state then a right to impose new rates?

P. It has been claimed that the conditions under which a company builds a road, constitute a contract with the state, and the Constitution of the United States (Art. II., Sec. X.) provides that no state shall pass a law impairing the obligation of contracts. But tho the state can't do it, there's no question that the United States can. Under the Constitution (Art. I., Sec. VIII.) the United States has the right to "regulate commerce among the several states"; and there is no provision to prevent the United States passing for that purpose, should experience prove it desirable, a law impairing the obligation of contracts.

T. But as to the individual state, does the constitutional provision affect a state's relation with its citizens, or does it mean only laws affecting the relations of citizens with each other ?

P. It's a little vague: for instance, each man holds his and from the state, and yet the state can take it from him by eminent domain.

T. But eminent domain was an established institution before any American state was; isn't it part of the original understanding—the unwritten constitution, and therefore tacitly exempted from interference by later laws ?

P. True: and it looks as if a corporation in receiving a charter, had to admit certain rights as held in reserve by the state for the public good.

T. And how does it affect the case if the charter creates a virtual monopoly ?

P. That of course makes the case for the state's right of amendment all the stronger.

T. But a city is not a state, and if a city makes a contract with a street-railway company for a rate of fare, can the state legislature change it ?

P. No: that's clearly a contract, not of the state with its citizens, but of citizens with citizens: the state can't interfere there; the Constitution of the United States clearly forbids that.

455 (j). Taxation of franchises. *T.* Then has the city, or the state either, any resource but taking the control, if the railroad is making too much money ?

P. It could tax the franchise, unless something in the state constitution might forbid; there's a good deal of agitation now for state legislation making the right to tax all franchises perfectly clear.

T. But does taxing a franchise either by the city or by the state, cover the whole case ?

P. No: because it is conceivable that if you made fare and freight expensive enough, and then taxed the money away from the roads, you might get enough to run the whole government, and yet you would be getting it solely at the expense of those who use the railroads:

and all others would escape taxation. Perhaps, tho, those who don't use them, directly or indirectly, are so few and pay so little in taxes that, as in the case of bridges, the question concerning them may be regarded like the trifles that the law doesn't take into account.

T. What is the fair adjustment, then ?

P. Keep charges at the point where the roads can make a fair return on capital and pay about the same rate of taxes that other property does.

T. That assumes that the railroads can all make money enough to do all those cheerful things; but can they ?

P. By no means: in the last decade of the nineteenth century most of the American railroads were bankrupt.

T. Why ?

P. Roads had been built faster than business had grown to support them, and very often the men spending the stockholders' money incorporated themselves as "construction companies" and "car companies," and then paid those companies enormous prices to build the roads and equipments.

T. Do you think the roads would have been more prosperous if they had been government institutions ?

P. Probably their officers would not have been less so, as governments run things in America: the politicians in charge of such public works as we have, are not generally supposed to suffer from lack of prosperity.

T. But the roads themselves ?

P. In Germany the government roads are not prosperous.

T. Isn't that because they are run in the interests of the people, at low fares ?

P. The fares, tho about the same in money as ours, are twice as high *compared with other things*, as they are in the thickly settled portions of America, and the trains don't run half as often.

T. How about the proportion of trunk lines opening up a variety of villages between central points, on the continent of Europe, as compared with England and America ?

P. In the countries of government roads, there is usually but one trunk line between important points. In England and America, there are usually several, each opening up its own line of towns and villages, and all forcing each other, through competition, to the utmost economy and efficacy.

T. What has been the experience of our Canadian neighbors ?

P. The London *'Economist* states that the lines the government has built there are located to foster constituencies, not trade; there was much corruption in the contracts; the roads have been run as a political machine; much improving has been done for the sake of giving contracts to political allies; cost of operating has been higher, and number of employees greater, than on private lines; on account of political pulls, unfit employees are retained, and favorable rates are given to friends of the administration; politicians back enormous claims against the railways; and unbusinesslike competition to help political favorites, has injured private roads.

457 (*1*). *Government* *T.* Has our government done nothing for
aids and regulation. railroads?

P. Yes, cities, states and even the nation have given "government aid," the smaller governments generally by money; and the states and the general government by land granted to the company out of the public domain, which the company could sell or mortgage.

T. How is it done in Europe ?

P. More frequently by the state building and running the railroads.

T. Which is the better plan ?

P. That depends on the degree of civilization. For a corrupt state to run the railroads itself, simply increases the opportunities of the politicians to rob the people. But where the state does not run the roads, politicians have often corruptly shared the profits, in return for legislating in favor of the roads against the interests of the people.

T. What, then, as far as the world has got, seems to be the best means, as between government and private initiative, of developing railroads?

P. Leave the building and running of them to individual initiative, as it is here and in England, but improve the government regulation of them.

458. *Post-Office.* *T.* In point of time, what conveniences did governments probably begin supplying next after money and roads ?

P. Post-horses were supplied on the roads as early as Assyria.

T. What was the origin of the postal system ?

P. Like roads, it was evolved for military reasons. The posts along the roads began growing for the transmission of military orders.

T. At first sight, isn't there a good deal of robbing Peter to pay Paul in the postal service—making the cities pay for the remote regions ?

P. Yes, but there's really not as much as at first sight: for tho three-quarters of the expense of the postal service of the whole country is in transmission; in thickly settled regions, probably more than two-thirds is in collecting and distributing, and less than one-third in transporting.

T. But suppose the thickly settled regions entailed more expense in transporting too, would the Peter-and-Paul system be justified ?

P. Undoubtedly: we can all well afford to be taxed for such an agency of civilization as the mails.

T. Well, we'll consider the advisability of government post-offices settled beyond discussion. But tell me, are the post-offices in Europe confined as nearly as ours, to handling written and printed matter ?

P. No: they generally do everything that is done by our express companies.

T. Is that state service as good, on the whole, as the service of our express companies ?

P. No: they are slow and unaccommodating, and apparently the rush of American express business would swamp them utterly.

T. Do they do their work with letters and papers as well as ours ?

P. Certainly not on the Continent.

T. Why does ours do its work so well ?

P. Because our people write vastly more letters than any other people, and so they watch the post-office closer (444, 469), and demand higher efficiency.

T. Do the European governments do the telegraphing ?

P. Entirely.

T. Are the European telegraph services better and cheaper than ours ?

P. They compare very favorably, even in apparent cheapness, but not in actual cheapness.

T. Why shouldn't our government do it ?

P. One reason is that the people generally won't watch telegrams as they do letters: fewer people send telegrams. A better reason is that the private companies on the whole do it cheaper. The English government does it as we do our post-office, at a deficit; and the demand for telegraphic service is not, like that for mail service, of such infinite importance to the education of even those who don't use it much, that it is fair to do it at the expense of the taxpayers.

CHAPTER XXV.

PUBLIC WORKS—CONTINUED.

*Municipal.**

461. Street Railways. *Teacher.* Now to come to street railways: which of the great nations leads in street-car accommodations?

Pupil. America, immeasurably.

462 (a). *Evolution.* *T.* And yet did America have the first electric cars?

P. No: Germany had the first, but America has introduced them much the fastest of all the countries.

T. How do you account for that?

P. Germans wait for their paternal government to take care of them, and governments move slowly; Americans see chances to make money, and take care of themselves promptly.

T. Did Germany's having the first electric cars result from her being the European leader in street railways?

P. Far from it. Great Britain was the leader, especially in Scotland.

463 (b). *Municipal ownership increasing in England, little on Continent, in America none.* *T.* In municipal ownership too?

P. In a qualified way, like that of the French railroads (446). In 1899, in Scotland, two-thirds of the street railways were owned by the cities and leased to the companies operating them, and in England and Ireland one-third.

* In this chapter my obligations to Dr. Albert Shaw's two volumes on "Municipal Government" are so many, that to acknowledge each one would require including his name in nearly every page.

T. Didn't any of the cities operate their roads ?

P. At first parliament forbade it. In '82 one city—Huddersfield, was permitted to operate its railways. Since then up to 1899, about twenty cities have obtained the right, and as the companies' leases are now rapidly falling in, many more are applying for it.

T. Has electricity anything to do with this rush ?

P. Yes: towns owning electric plants have been particularly anxious to use them on their railroads.

T. What had been the success of English municipal ownership of street railways up to the time our book was published ?

P. It was early to tell. On the whole the prospects seemed favorable, until late in '99 began a violent opposition to "municipal trading" as they call it (478-81).

T. What was the state of affairs regarding street-railways elsewhere in Europe ?

P. Virtually all the European cities get large revenues from the street railways if they don't run them themselves. The Hamburg railways pay more to the city than to their stockholders. There is little, if any, municipalization on the Continent. But minute regulation for frequency, plenty of room, etc., is almost universal. There, however, regulation is easier: the cities are more compact than in Great Britain or America, and more people live in the same building where they work. Therefore there is not as great need of street railways or as great crowding of them.

T. Then if our people were to get more in the way of living near their businesses, wouldn't it relieve the frightful overcrowding and discomfort of the street railways ?

P. No.

T. That's strange! Why ?

P. Because the companies would simply run fewer cars. They wouldn't run any more cars than they could run at a big profit, until they were compelled to.

T. Isn't that an argument for the cities taking the roads by eminent domain ?

P. Yes, but that's not necessary. The cities could compel decent accommodations from the companies, if the art of politics and the quality of the suffrage were up to it: it's done in many places in Europe.

T. What has been the relation of the cities to the roads in America?

P. In the early times of street railways, most of the cities simply gave away the franchises. Baltimore in 1860 sold hers for a fifth of the fares. Later it was reduced to nine per cent. The proceeds take care of all the parks, and have already bought several new ones. Cincinnati, Providence and Richmond receive five per cent. of the fares. Some other cities get revenue from the roads in various ways, and the tendency to do so is becoming general.

T. How about municipal ownership?

P. Up to 1899 the only noticeable cases of it were Boston's ownership of her subway, and New York's ownership of the Brooklyn Bridge railway, both of which the cities leased to the operating companies.

T. Was there anything more comprehensive on foot?

P. Early in '99, Detroit was preparing to take possession of all her street railways, and Cleveland had elected a mayor who was expected to do the same with franchises generally.

T. What was the outcome in Detroit?

P. The courts waked up some amendments of the state constitution that were passed when the state had heavy losses in the infancy of steam-railway building. Unless the constitution is again amended, these render government ownership impossible.

T. And how in Cleveland?

P. The problem has been enlarged by a great and destructive strike, with dynamite and boycott of people riding in the cars, and no action was matured up to the close of the year.

T. Why are these tendencies to municipalization favored?

P. There are two main reasons. First, it is generally

realized that monopolies will be run for the benefit of the owners, and that the only way to have them run for the benefit of the public, is for the public to be the owners.

T. What is the weak point in that reasoning?

P. Here in America, with our large ignorant and venal vote, the public is generally run by the politicians, so that if the monopolies are nominally run for the benefit of the public, they will really be run for the benefit of the politicians.

T. What is the other reason for municipalization?

P. As the cities grow, the business of the roads increases, and moreover it increases without a proportionate increase in the expense—no greater managerial ability is needed, and cars are less and less apt to run partly filled; in this way, there rolls up a sort of double “unearned increment” (88) of which the public should have the benefit.

T. But why is the public any better entitled to this unearned increment than to that on land?

P. For the very reason that the landowner should have the increment. There is no question about the public being the owner (unless it has given it away) of the land on which the railway runs—of the instrument which produces the increment; and when that instrument is a natural monopoly, the enthusiasm and competition of individual ownership cannot be applied to it anyhow: so there is no need for the public ever to part with it. On the other hand, without the enthusiasm and competition of individual ownership in ordinary land, we would never have got beyond the barbaric conditions universal among peoples where private ownership of land does not exist (90).

T. In order to secure the unearned increment of the franchises to the public, what farther policy is now in favor?

P. Fall back on the recent English method, and have the city retain the ownership of the roads, or at least of the franchises (it may not be necessary for the city to build the roads), and lease them to companies. That

seems to be better suited to our degree of political development, even tho England may be ready for the farther step of the cities operating the roads themselves.

T. Or why wouldn't it be well to retain a share of the receipts, as Baltimore, Cincinnati, Providence and Richmond do?

P. That is only one form of lease.

T. Isn't there a reason for the public sharing in profits rather than receipts, besides the public's right to the increment?

P. Yes: sharing receipts regardless of whether a profit were realized or not, would discourage making new roads. Besides, as already shown, profits increase faster than receipts.

T. And isn't there a reason the other way?

P. An apparent reason, because bookkeeping can juggle profits; but it ought to be easy to guard against that.

466 (e). *Should be leased but not sold, and be under one management.*

T. But how could the companies afford to make the roads if they had to give them up in time?

P. Just as in other leases, the rent could be made low because of the reversion, or the lessor could have the option of paying for the lessee's improvements or renewing his lease.

T. But isn't it desirable that the roads should all be under one control?

P. Yes, as stated in several cases before, to save duplication of roads and managers, and also to facilitate transfer tickets. But that need not involve the city's running them. In Germany each city's roads generally belong to a single company, but the city regulates them very well indeed.

T. But doesn't the single management prevent the public having the benefit of competition in fares?

P. The public can't very well have that, anyhow, unless you let more than one road run through a street, tho of course there is room for some competition in parallel streets.

T. How can low fares be secured, then?

P. By government regulation, and even by the tendency of a broad-minded management like that of the Metropolitan Traction Company in New York, to see its own advantage in inviting large business. Moreover, not a little by the general influence of those vast indistinguishable agencies which go to make up habit and popular opinion; the fact that fares are generally five cents, the country over, is significant.

T. How do you account for their being the same in the city, where everything is expensive, as in the country, where everything is cheap?

P. Business is so much brisker in the city that the service can be done at a smaller percentage of profit per person carried.

467. *Waterworks.* *T.* What has been the experience regarding government's relations to waterworks?

P. In many of the ruins of early civilizations, especially the Roman, and in many primitive civilizations of our own day, in Asia and Africa, we find waterworks; and we know that they all were government works, because private coöperation was not equal to such work before modern civilization. In modern Europe, especially in the more paternal states, municipal ownership is the rule. In America, waterworks were generally begun by private companies, but the tendency has been more and more for the municipality to buy out the companies or start its own works. In the first half of the nineteenth century, most of the works were private; at its close, probably most of them are public.

T. Has the size of places affected the question?

P. Yes: the little works of small places have been more readily constructed by private capital. The works in cities of over 30,000 are generally municipal.

T. Is there any peculiarity about waterworks which favors this?

468 (a). *Why fit for municipalization.* *P.* Yes: tho the waste and corruption in building government works have often been frightful, after they are once built they require little management, and so afford little field for corruption.

T. But after they are finished, don't they demand pretty intelligent management?

P. They ought at least to be under the absolute control of a Board of Health that cannot possibly have any financial interest in them: lately Philadelphia and Passaic were full of typhoid from their water-supplies, and in Philadelphia, long after the remedy was plain, it was impossible to apply it, because rivals who wanted to benefit by the work, got the politicians at loggerheads about it.

T. What was the recent experience in Liverpool?

P. It was found that two-thirds of the water running into the city, ran out again through leaks and taps needlessly left open. This is probably about the case in the vast majority of American cities to-day, at least where meters are not used.

T. But what reason have we to believe that it would be better under private management?

P. Then the company would be taking care of its own supply: now the politicians take care of the public's.

T. But on the whole, are municipal waterworks to be approved, despite municipal corruption?

P. Yes, and largely for the same reason that makes the post-office a success: everybody watches (444, 459) the water-supply, and if it is bad, complains and votes against the government.

T. But are not waterworks, after all, a natural monopoly—isn't competition which involves more than one pipe-line in a street, practically possible?

P. Only in large places, and even there it has not been at all frequent. Moreover, when it is, it is a frightful nuisance from increased tearing up of the streets.

T. How about gas-pipes?

470. Gas.

P. Gasworks are cheaper to build than waterworks, and, perhaps for that reason, are not as generally municipalized: so competition is more frequent in gas than in water: two or three companies frequently have gas-pipes in the same street.

T. What about the argument for municipal ownership, then ?

471 (a). Graves
municipalization
less than water. *P.* The argument is not as strong as for water, especially when we consider that gas is not used by everybody, and requires more management than water after the works are erected.

T. Do cities not making their own gas generally charter more than one company ?

P. In America, of course, they charter as many as can bribe the authorities, tho fortunately some of the authorities cannot be bribed. In other places, people don't have their streets torn up by more than one, and they regulate the prices and quality of that one. Hamburg has even leased her own works to a private corporation, but she keeps her hand on that corporation. In all of Germany there's but one city (Frankfort) chartering more than one, and gas is higher there than anywhere else in Germany.

T. What is the experience regarding municipal ownership of gas-plants ?

P. It corresponds with the conditions just given. Municipal ownership is not as common as with waterworks. Paternal Germany leads off, of course, with a majority of the big cities owning gas-plants. The smaller cities, as in the case of waterworks with us (and apparently the world over) do not municipalize gas as generally as the large ones. Great Britain, notwithstanding it is, among European nations, at the other extreme from Germany as regards paternalism, nevertheless comes next with proportion of municipal gasworks, they being about one in three, and certainly increasing.

T. What extension of street lighting has become frequent in Europe ?

P. Glasgow and several other Scotch cities, likewise some German cities, light the courts, halls and stairs of tenement-houses, and Glasgow makes the owners pay for most of it. Some cities, tho, spend as much for it as in lighting streets—this on the principle, of course, that a light saves a policeman.

T. Can you imagine a reason why, despite England's lack of paternalism, she comes next to Germany in municipalizing gasworks?

P. Public opinion demands them in both those countries more generally than in the rest of Europe, there being a larger proportion of people given to reading, who want abundant light, and who can afford to pay for it.

472 (b). Cheapened by it in some places. *T.* Has municipal ownership cheapened gas in Great Britain and Germany?

P. Apparently: it is often supplied as low as twenty-five cents, while in America it is often above a dollar. But it may be even yet too early to be sure that it is not cheapened in Great Britain and Germany by an increase of taxation.

T. Had we better go in for municipalization, on the chances?

P. We can tell better after we've successfully gone in for decent government. But if most of our present city governments were giving us gas for fifty cents, they'd be adding more than another fifty cents to our tax-bills by corruption in the works.

T. Haven't we had any experience in that sort of charging?

P. Not much in America in connection with gas, because there have been few municipal plants. But the bookkeeping for water and electricity has been something fearful and wonderful in the direction of trying to show a profit. Published reports are very unreliable. The mayor of Philadelphia lately reported a year's profit of \$160,000 on gas, while a Massachusetts committee investigating Philadelphia experience for their own guidance reported a loss of \$100,000.*

T. What has been the general American experience in municipalities operating gas-plants?

P. It has been very slight: people are too afraid of the political rings, and the rings can get too much out of the existing companies for letting them alone. A few towns have bought their local gasworks within the last score

* Daniels, "Elements of Public Finance."

of years; but on the whole, people do not trust universal-suffrage government far enough to want to disturb, in its favor, the existing state of affairs. Richmond and Philadelphia have long had their own works, but tho Philadelphia has owned hers for more than half a century, she has lately leased them to a private corporation, municipal management being a failure, probably owing to corruption.

T. Can't cities do something for the gas-supply without owning it?

P. Certainly: they can keep it up to standard and regulate prices—the German cities and many others do that even without needing competition (471). Some of the German cities have it tested every day, but that's probably more than many of our cities could do with any confidence in the test.

T. Besides the argument of cheapness of gas and water (which may not exist) how about free use?

P. If people *think* it's cheap, or get their supply at a fixed price, as is generally often the case with municipalized water, they will use more, and that's good for them.

T. And isn't a municipality sure of at least one very valuable customer?

P. Yes: the city has ready a big customer whom it can rely on—namely itself. Some Continental cities use nearly quarter of what is made, but that looks as if the people did not use as much privately as the English, or even our people, do.

T. How is it with municipalizing electricity?
473. Electricity.

P. No existing state of affairs had to be disturbed to municipalize it: so our people have municipalized it much more generally than gas. Great Britain leads even Germany in municipal electric lighting, possibly being quicker to seize novelties; and Germany has more electric plants run by private corporations than gas-plants, possibly because the capitalists are quicker than the government.

T. But not everybody uses electricity: so far, not

nearly as many as burn gas. What's the justification, then, for municipalizing it ?

P. It's incomparably the best street light, and economizes police expenses, and prevents crime: the electric light has rendered many a street safe which great police care failed to. Municipalizing for street purposes would be justifiable as a police measure, and private supply may as well go along with street supply.

474. Telephone. *T.* There's been a good deal of discussion lately over municipalizing the telephone. Perhaps we can sum up most of what we've been learning regarding government ownership, by discussing that question. How does it strike you ?

P. First, of course, comes up the fundamental question of the fitness of the governments to undertake it. Certainly they are not in most American cities. In a few perhaps they are.

T. Well, what's to be considered where they are ?

P. Whether its use is so general as to justify government handling, and whether it's enough of a monopoly to need government management regulation.

T. What are your answers ?

P. It's doubtful whether its real usefulness is wide enough to strongly justify government being burdened with it. But there's no doubt that it is essentially a monopoly: for competition seems next to impossible, because every user wants to reach every other user, and the service would be almost useless if split up among several companies. Where government is fit to control conveniences, the telephone should be among the first.

475. Tearing up
streets. Tunnels
for pipes, wires, etc. *T.* Now as long as there is private competition in water, gas, and electric conduits of all kinds, isn't it a great nuisance to doubly or trebly tear up the streets to enable several companies to construct and repair their conduits ?

P. Of course it is: it not only is ugly and obstructs travel, but it spreads malaria.

T. But wouldn't it be remedied by combining into a trust all the companies dealing in one of the commodities, as now is frequently done ?

P. No: because the trust could not come before the competing companies had torn the town to pieces, and wasted a lot of money in duplicating each other's works.

T. But the trust needn't continue using all the pipes, and tearing up to keep them in repair, need it?

P. If it doesn't use all, it would have to tear up for new connections to replace the discarded ones; and so far as it does not use all, there will have been just that much waste.

T. But isn't there any remedy for all this tearing up?

P. Yes, for gas and water both (not to speak of sewerage, electricity and pneumatic tubes) there is everywhere a most painful need for a central combination to put all the conduits in each street into one good tunnel, abundantly large and convenient, where they could be placed as needed, and taken out and repaired without the inconvenience, waste and sickness always due to disturbing the streets.

T. What does experience say about the tunnel system?

P. Some of the London underground railway tunnels carry pipes and are, on the whole, successful. Paris has such a tunnel system in some of its sewers. It is not as complete as it might be, but very admirable as far as it goes. Paris puts the gas-pipes and electric wires under the sidewalks instead of the roadway. Milan in its splendid new *Via Dante* has galleries under the sidewalks and right by the houses for everything except the sewerage. That goes under the roadway as usual.

T. But how are you going to get the necessary concert of action from half a dozen independent companies squabbling over each of the conveniences?

P. Tunnel companies might be chartered, but by the time a city needs them, the then existing gas and water companies would fight against moving their own pipes: so after all, the only way to get the best results would seem to be for the city to own all the interests, or at least the tunnels, and compel their use.

T. Why wouldn't it be well for the government to take the whole lot by eminent domain, and fix them up right, once for all?

P. It certainly would for any government fit to do it without the frightful waste and corruption of most government work in American cities. Tunnels would probably cost American taxpayers many times what they ought to, but they might be worth having at the price, or especially for reasons of health, at almost any price.

T. Do all cities let companies use their streets for pipes and wires without paying for the privilege?

P. Most American cities do. Most European cities get large revenues from them: so probably if we didn't municipalize so far as to have the cities do the work of the companies, it might be well to make municipal tunnels and charge the companies for the use of them.

476. Advertising signs. *T.* Speaking of sources of revenue, can you tell me of one very novel and useful source of revenue in Berlin?

P. She regulates advertising signs, keeps them in good taste, and gets seventy thousand dollars a year for the privileges of them.

477. Summary and conclusions. *T.* Well, we have been over about all the conveniences which any government has so far attempted to supply. What, on the whole, is the drift of experience regarding municipalization of them?

P. That in all matters which involve tearing up the streets, honest municipalization would probably be much better than private control, even if the control were competitive: but also, alas, that honest municipalization is generally so far out of sight in America, that probably present evils are much less than such municipalization as we could get in most places at present.

T. But leaving out such matters as gas, electricity and the telephone, which are not quite natural monopolies, might it not be wiser for the government to take all the natural monopolies under its own charge?

P. Perhaps; it depends on the degree of civilization. Probably early in '99 most students would have said that Great Britain and Germany had already attained the degree of civilization necessary; but by 1900 in Great Britain, the opposition to "municipal trading," as they call it, had become so great as to lead to forming a par-

liamentary commission of inquiry, with a view to regulating and probably materially curtailing such activities.

T. What were the objections?

P. First, that within a score of years
 478 (a). *English taxation increased without proportionate results.* “municipal trading” had more than doubled municipal indebtedness and nearly doubled municipal taxation, while population had only increased about a quarter.

T. But hadn't the municipalities something to show for the debts?

P. Nothing, it was claimed, in proportion to the amounts, especially as plant had generally been suffered to become antiquated, instead of being kept up to the mark, as it must be kept under private competition.

T. But were not the people getting conveniences in return for their increased taxation?

P. Not at all in proportion to the increase, it was claimed, especially as people were paying for most of the conveniences as used, tho undoubtedly in many cases at lower apparent rates than those charged by the private companies.

T. How about broad schemes embracing several municipalities?

P. Municipalities were obstructing them,
 479 (b). *English municipalization obstructive,* just as we have seen municipalities obstructing American roads (442). A striking instance cited was the killing by the municipalities of a private scheme to light some thirteen hundred square miles very cheaply from the coal-fields, while of the whole thirteen hundred square miles, under four square miles were lighted by the municipalities themselves.

T. How was this choking-off system carried out?

P. By laws to the effect that when a municipality has parliamentary sanction to undertake a matter of the kind, no other agency can do it within the limits. In October '99, over a hundred local governments who had obtained such sanctions were not using them, and of course not permitting anybody else to do the service.

T. How is “politics” appearing in the matter?

P. The town authorities are not only seeking for

“protection” for their industries by keeping private competition out, but they have actually formed a “Municipal Corporation Association” to secure such protection from Parliament, and are including in the tax-bills the expenses of agitating to deprive the taxpayers of the benefit of competition.

T. The effect of this on opportunities for capital and labor are too obvious to occupy us, but what must it be on inventive talent?

480 (c), especially to inventive talent. *P.* That's perhaps the most serious question in the whole situation. The case is plain enough in such instances as just cited; but there is a general conviction that governmental bodies can never be expected to be on the lookout for new inventions or opportunities with the keenness forced by private competition. President Hadley says that: “The half the railroads and nine-tenths of the telegraphs of the world are in government hands, all the large improvements of method in these lines have been made under private enterprise.”

T. But natural monopolies can't have the benefit of the competition anyhow, can they?

P. No: so in natural monopolies at least, if they are left to municipal development, we must be careful to see that they *are* developed, and that they are not forced to municipal development until experience and politics are more advanced than a good many enlightened people believe they generally are yet, even in England.

T. How is the matter affecting the elections?

481 (d), and dangerous to the purity of government. *P.* It is eating out the old purity of English municipal government, and reducing it toward the level of ours. The number of laborers in municipal employ has of course been enormously increased by the municipal tramways, electric companies, gas companies, etc. These laborers, like ours, are casting solid votes for the administration in power, while the administration is open to the corruptions which big salary lists have injected into our own politics * (452).

* I am principally indebted for the recent negative English ex-

T. And how about the general character of this labor?

P. Before Colonel Waring came and since Colonel Waring died, we have most of us noticed "the man with the hoe" cleaning streets under ordinary American administration, and we know the contrast between him and the laborer who is keenly watched in private competition.

T. Is there any safeguard worth considering against these dangers of municipalization?

P. One has been pretty obvious in the course of our talk. So far as private enterprise is left free to come in when government work is shabbily done, the possibility of its coming might have some effect in holding government work up to the scratch.

T. But why have government work at all, when even

perience to an important letter from Mr. Robert P. Porter in the *New York Times* for October 31, 1899, and to a friend from Glasgow whose family has furnished the city at least one provost, and who tells me that objection to municipal trading is rapidly growing, because of the corruption it breeds. The latter sends a copy of a *Glasgow Herald*, saying: "The citizens of Glasgow may again congratulate themselves upon having had a narrow escape. By 28 votes to 17, they have been saved from embarking on the perilous enterprise of Municipal Banking." He also writes, September 8, 1900: "Our rulers are emulous to become bankers as well as purveyors of water, light, power, telephones and much else, and owners of a tramway system. There is a growing sense of danger in Glasgow, due to rapidly increasing taxation occasioned by the enterprise of our city fathers. Twopence on the pound of rental has just been added to the rates, and with increasing municipal liabilities there is prospect of further rise. Meantime our streets are badly paved, and are like to remain so as long as our rulers find they can gain greater distinction by proposing banking schemes than by attending to the streets. The lighting of the city is also not good. Lighting costs money and does not bring glory." The "glory" sought for by the "city father," seems to be rapidly becoming simply the glory of voting conveniences to the proletariat at the expense of producers.

The side against municipal trading was also presented by Lord Avebury in the *Contemporary Review* for July, 1900. He was answered by Mr. Robert Donald in the next number.

the threat of private competition is desirable as a corrective of it ?

P. For reasons that we have discussed abundantly—to guard against monopolies that even votes can't reach, in matters where even private enterprise would not have the stimulus and restraint of competition. Private enterprise and municipal enterprise, like all human enterprise, both have their merits and their dangers.

T. Where seems the guiding line ?

P. That of natural monopoly. Where the benefit of competition cannot be had, it is mainly a question of the purity of politics whether the government had better take hold; but where private competition can be expected to give the people the usual benefit of keen enterprise and low prices, by all means keep government out.

T. Are we yet ready in America to let it in ?

P. It is doubtful if any large community among us is yet civilized enough to municipalize much wisely. Gas and electric supplies have occasionally been properly managed by cities, but often not; and street railroads not at all yet. Water-supplies have sometimes been well and economically managed by cities, yet much—probably most of the New York work, has consisted of frightful swindles, and we have already noticed the experience of Philadelphia.

T. But on the other hand, how about the Ramapo scheme ?

P. Early in 1900, a gigantic corporation loomed up in possession of all the water-rights affecting cities of the lower Hudson valley, including New York itself. This attained the proportions of a natural monopoly, and public opinion was strongly in favor of the principle we have already laid down—municipalization as a defence against monopoly.

T. But are not cities and villages corporations ? Why should they not manage such affairs as well as private corporations ?

P. Because the officers of private corporations are elected only by those who have money directly at stake;

while the officers of cities are largely elected by people who pay no taxes, and have no money.

T. But why are people permitted to vote in matters where they do not have to stand the consequences?

P. It's probably too late to ask that question. Revolutions don't often go backwards. The only remedy that now seems practicable is to help such people get ahead so they too will have something at stake.

T. But isn't there one argument for municipalization that we've not yet touched? Wouldn't it help reform?

P. We did touch that point when we
 483 (f). *Municipalization as training in citizenship.* said that everybody would complain of poor water and poor postal service: some people think that if people were dependent on government for more of their conveniences, they would take more interest in government and reform it.

T. What do you think of the idea?

P. It's not impossible, but it's so very uncertain that it won't do to trust much to it before knowing more about it. It's another argument for going into municipalization, but going slow.

T. It seems to me that you're arguing a good deal like the mother who didn't want her boy to go into the water before he knew how to swim.

P. And if she meant that he shouldn't go in all the way—that he should wade, and not plunge where it was over his head, she was a very sensible woman.*

* Prof. Daniels ("Public Finance," Edition of 1899, pp. 277-9) thus admirably summarizes conclusions on the topics of this chapter:

"A careful sifting of the evidence presented on both sides seems to establish the following conclusions as highly probable: (1) The price charged by private companies for the supply of water exceeds by twenty-five to forty-three per cent. the price charged by municipal waterworks; (2) the cost of the water-supply by municipalities probably exceeds the cost incurred by private companies, tho how far the increased cost augments general taxes it is difficult to say; (3) while the price of gas in England under both systems is markedly less than the price of gas under either system in the United States, the rate of reduction in gas prices in the United States since 1870 seems to have been more rapid than

in England; (4) the cost of producing gas has probably been less under private than under public management. . . . It is practically certain that municipalities have paid more than private companies for labor both in England and in the United States. 'This failing,' says Professor Bemis naively, 'if it be a failing, is quite common in public works. Many consider it an advantage for public works thus to set the example of good wages.' Our complacency on this score might perhaps be just if the example set by our public works were uniformly an example of good wages for good work. When, as is so common, the practice of our public works amounts to high pay for the inefficient service of party hacks, the 'advantage' of such a policy is more than dubious. (5) The price charged for gas by public companies in England appears to be less by seven or eight per cent. than the charge made by private companies, but no such general assertion can be made with respect to the United States; (6) public electric-light plants in this country cannot be said generally to furnish electricity at a lower cost or price than private companies. The evidence rather tends to show that the advantage lies with private companies, especially as long as electrical apparatus is evidently in the transitional stage. (7) Local transportation has been undertaken by several British municipalities with varying success. In this country it is as yet untried. When all circumstances are taken into consideration it would appear that our transportation service is not only immeasurably more efficient than the British tramway service, but that the charges for distance traversed are really less in the United States than upon the most successful of municipal lines in Great Britain."

CHAPTER XXVI.

RECREATIONS AND OTHER HELP TO THE UNFORTUNATE CAPABLE.

484. Museums and
Libraries.

Teacher. Now to leave mere "practical" conveniences, how about museums and libraries?

Pupil. In countries where universal suffrage hasn't yet been the rule long enough to "get in its fine work," government manages them very well. In Germany, government even runs the theatres well; but under the Republic, the Paris opera has become a good deal of a botch, despite government patronage.

T. How about these things in America?

P. Generally they have been kept as far away from universal suffrage as possible. The officials are nowhere elected, tho in most places appointed by the mayor. The great museums in New York, however, are, fortunately, private corporations; and so with the great library benefactions of Astor, Lenox and Tilden; and so too, in other cities, with the great benefactions of Peabody and Carnegie.

T. But has that rule been universal?

P. No. In Boston, for instance, the Public Library, under city control, has been a brilliant success. But Boston's interest in library matters is almost unique.

485. Parks.
T. How about parks? Our good Germans have plenty of private ones, for picnicking and dancing and concerts. Why can't parks, then, be left to private enterprise?

P. Perhaps they can, but as a matter of fact, private enterprise never did create a large one: all the private

ones in New York could be lost in a corner of Central Park, not to speak of the newer public parks; and the same is true of the ratio of private parks to public parks elsewhere. Land for large parks can't well be had without eminent domain: so they must be government institutions.

T. How about their regulation?

P. In Europe parks have generally been well managed. So they have in Boston and a few more of our cities. In New York and some other cities, it has been a constant, and not always successful, fight to keep ignorance and corruption from injuring them; and much similar experience has been had elsewhere in America.

T. What's the best way yet devised to take care of them?

P. Establish laws putting them under commissions to be selected, directly or indirectly, by artists, architects, engineers, and other competent persons outside of politics. In New York, there has lately been great improvement made by having the artistic and engineering and Natural History societies appoint some of the park officers. This heads off the ignorance of the sort of managers dependent on universal suffrage.

T. What strong economic agreement is there for abundance of parks?

P. It has gradually become plain that large tracts, especially city slums, can be taken and, with good management, partly turned into parks and boulevards, and the whole expense paid by selling off the rest for building-sites. This has been done in many cities, especially in Europe.

486. Clearing slums. *T.* Has improving the dwellings of the poor been done solely for this purpose?

P. No: in most of the leading European cities the miserable, crowded, tumble-down, fire-trap quarters have been cleaned out, better streets put in, and healthier and safer houses put up, often with a profit on the whole job.

T. Can't such work be left to private competition?

P. No: while it would be possible for individuals or

private corporations to rebuild all the houses they could get possession of, possession of the entire district for the purpose of rearranging streets, would be impossible. Land for a new street is virtually a natural monopoly: for some of the owners of houses, hoping to benefit by improvement, or for other reasons, are sure to hold on to their own against every power less than government:

487 (a), Possible only under eminent domain. so that under all ordinary circumstances, nothing can make such improvements properly and thoroughly but the one thing that can control a natural monopoly—eminent domain.

T. Very good. Now as a matter of fact, what, in this way, has been done by municipal governments in America?

P. Nothing more than occasionally putting a new broad sunny street through a slum, or widening an old street in it. Then, however, private enterprise has generally gone in and put up better buildings, tho very frequently they have been business buildings rather than better lodgings for the poor; and therefore the poor have, to a considerable extent, been merely driven to other slums.

T. What has been the political character of such improvements in America?

P. Too often: generally perhaps, they have been political jobs: the politicians have, in advance, bought up the property to be benefited, often below its value, at rates established by themselves under eminent domain; and then on getting possession, they have sometimes turned around and got new valuations for damages, and collected them from the municipal treasury. On the whole, the schemes have, with us, too often been mere wholesale robberies of property-holders by the politicians, with some half-way advantage to the poor, and some incidental advantage to the community in general.

488, Housing the poor. *T.* But has government here done nothing more directly for the housing of the poor?

P. Yes, especially in New York, where the conditions are worst, a good many laws have been enforced

toward securing from the landlord proper light, ventilation, drainage, and safety from fire.

T. But wasn't that interfering with liberty of contract? Light, ventilation, drainage and safety all cost money. If a man wants to hire a cheaper place without them, why interfere with his liberty to do so?

P. Liberty, like every other good thing, can be run to an extreme. No man should be at liberty to build or occupy a house which may start a pestilence through the whole community.

T. But suppose a man is so poor that he can't afford to live in a better one?

P. Then if he won't leave the city (77, 78), it would be better for him, and cheaper for the community, for it to exercise its rights of self-defence, and put him in the poorhouse at once.

T. Can we learn anything from European experience in the same lines?

P. As a rule, street openings have not been attended with as much corruption as here, tho there was a remarkable exception when Napoleon III. made over Paris. Something has been done by way of housing the poor in several of the British cities, Glasgow having taken the lead; and somewhat less in Germany and France. There has been an improvement in health and character, and those who favor "municipal trading" claim that on the whole, the buildings return a fair interest on the money invested.

T. So much for the positive side. What is the negative one?

P. It is admitted that in Glasgow itself the houses do not quite return their interest, and that in London more people are driven out of the old buildings than the new ones can accommodate, and forced into quarters worse than the old. The new buildings are really fitted for a higher order of tenants, and some of them who would pay more than the rates charged, are actually turned away. In other words, the enterprise has been made a charitable one rather than a business one, and that to the

detriment of those dispossessed to make room for the new buildings.

T. What is the effect on the amount of accommodations for the poor ?

P. Private builders have stopped making them: they won't compete with government charity: so, it is claimed, the very poor are worse off than ever.

T. How about the sanitary and political aspects of the case ?

P. Now the landlord—the municipality, is his own sanitary supervisor—nobody else to watch him; and his reflection depends on his own tenants: so he is not apt to be very rigid with them.

T. In face of the European experiences, what seem our chances of success ?

P. We seem still less ready for it, at least
 490 (b). but not necessarily under- in many large cities where it is most needed.
 take it.

In them, and in many of the small ones too, the government is so corrupt that the less it has to do, the better. Moreover, in house-building at least, tho not in street-opening, there's room for infinite competition.

T. What is Boston's recent experience with buildings for the poor ?

P. The legislature has voted that they must have so many good things in new buildings, that the poor can't pay the necessary rent; and building for them was at a standstill in the latter part of the century.

T. What is New York's recent experience of private competition ?

P. Mr. Gould's company and some smaller ones have provided vastly improved houses at a reasonable profit, both in town and in the suburbs. Some, however, have done it at a loss; and at least one who offered a special private entrance to each apartment, found that the people preferred the sociability of the old common halls, despite its evil features. The use of bathtubs for coalbins has become one of the standard humors of the subject.

T. What's your conclusion, then, on the whole matter ?

P. In America, at least, let the government require

good sanitary conditions, and leave the rest to private enterprise and philanthropy.

491. Personal conveniences, army outfitting, etc.

T. Is there anything else worth naming in the way of help for the less fortunate people?

P. We have but few good public baths, while they and other sanitary conveniences in European cities are far in advance of ours. Some cities have provided public wash-houses for laundry work, and Glasgow has even taken in washing, because the women didn't use the public wash-houses enough to make them profitable.

T. And how consistent have the socialists been in view of this?

P. Those who have wanted the government to do everything, are objecting because government competes with the washerwomen.

T. Now, to approach an important kindred question, how are armies and navies generally supplied with what they use?

P. Arms and vessels have been supplied from both government establishments and private establishments; food has nearly always been supplied by private contractors (with notoriously bad results in the Americo-Spanish war) and, until lately, so has clothing. Lately, however, the British government has been making a good many of the boots and clothes required by the army.

T. Has this been done at a saving?

P. Yes.

T. Well, now it has been shown that government has been building houses, supplying them with water and light, and making boots and clothes. We know, too, that a great many people sadly lack these good things and most others; we also know that all the things made by private enterprise are often made at wages that afford but little comfort. Now haven't all these facts been cited to favor a way of relieving the hard lot of a great many people?

P. In the first place, what has been done has not yet been shown to have been successfully done. We must

not forget that agitation has already been strong in England—the very headquarters of “municipal trading,” to drive government back toward its old functions of protecting rights.

T. But there’s certainly been some success, and when the abuses incident to novelty have been corrected, perhaps more can be expected. What has the expectation widely suggested?

P. What the disappointments already have probably proved to be impossible in the present state of human nature—that government make everything and provide everybody with work and get rid of all discomfort about wages—in other words, socialism, which we have already considered in connection with government’s protection of property-rights (189-99).

T. True, but we had not then brought up the facts that show so much of the work to have been done already. Don’t these facts give the question a new aspect?

492 (a). Can be undertaken when government is its own customer. *P.* No, because when those things have been supplied by government, especially for the army and navy, and in a less degree in the case of gas and electric light, there was a certainty of the customer. The government stood ready to take them, and the producer made army and navy supplies only to the government’s order. There was no call for some of the rarest and most difficult powers of Ability—finding custom, avoiding bad debts, and anticipating just what and just how much the market is going to require.

T. But if the government produced everything for the people, it would be sure of its customer.

P. Yes, but no more customers would have the money to pay then than now, and those having it might like a choice of shops, and even of articles. They might not like to dress in Tammany style. Besides, we don’t all dress in uniform, and it is only in uniform that government has yet succeeded as a tailor.

493 (b). Private initiative is essential to variety. *T.* Well, the government could have a great many shops and styles.

P. But if they were all under the man-

agement of Tammany Hall, they might all be the sort of shops that prudent people avoid.

T. Why? The government officers would not be conducting the shops for their own profit.

P. Some would not, but we know from experience that too many would.

T. But government could still leave the private shops open, couldn't it?

P. Yes, if it courted failure. Managers chosen by political pulls could never compete with those chosen by

494. General gov- Nature. To succeed, government would
ernment production
attacks Property, have to take away the citizen's power to
Contract and Char- purchase anywhere he pleased, just as the
ity. extreme municipal traders are beginning

to do in England now. This would not only deprive him of the benefits of Competition, but of two other institutions that men have been laboring upon through all civilization, and upon which, in fact, all civilization rests: I mean Private Property and Contract. With them would go production itself, and the very possibility of charity.

T. But why should the scheme upset the institution of Private Property?

P. Private Property is simply one of the consequences of Ability. Other things even, a man will have as much of one as of the other; tho of course other things are not always even, because an Able man may deliberately devote his abilities to something that he knows won't pay much, and sometimes "accidents" come in. Still, if you get up a system that denies Ability free swing, you at once attack the right to create property.

T. But how would you be attacking Contract?

P. Why, if the state is the only employer of Capital, Ability and Labor, of course any one of them has to accept what employment the state gives, on the state's own terms. No one of them has any more opportunity to contract, on terms satisfactory to itself, than the veriest slave born to remain in his status.

T. But how does the scheme attack charity?

P. Those who advocate it would say: By doing away with all needs of charity; those who oppose it say there

would be more need of charity than now, because there would be less production; and there would be no wealth to provide the charities.

T. This brings us to another class of government functions, and one whose appropriateness for government there is, probably, less dispute about. Can you think of a large class that we have not yet touched?

P. Yes; until we struck the question of clearing out the slums, we had only touched matters in which the whole community is directly interested—questions of convenience that come home direct to almost every man, and where, as a rule, people can help themselves. But in the worst slums, we struck for the first time the class of people that need help.

T. You have already admitted that everybody is interested in having city pest-holes cleared out. Isn't everybody interested, too, in having all those helped who need help; so that (to put it on the lowest ground) they shall not spread disease and be led into pauperism and criminality?

P. Yes, certainly, it's cheaper to have them helped to help themselves, than to increase the sanitary force, police force, and hospitals and courts and jails.

T. We have seen (218) that civilization apparently depends upon the burdens of the unfortunate being borne by somebody else. Now shall they be borne by more able people, as individuals, or by the state?

P. At first sight, it seems as broad as it's long: for as the Able people pay the taxes, it seems to make no difference whether they give the money direct or through the state.

T. But *does* it make no difference?

P. It makes all in the world, and for at least three good reasons. The state does its coarsest work but poorly, and its finest work—the care of its unfortunates and defectives, it does abominably. Therefore the less of that work that it has to do, and the more of that work that can be done by the exceptional men and women of the Able classes, the better.

495. Economy and civilization both require charity,

496 (a). preferably from individuals.

T. But why shouldn't government do the work by calling these exceptional people in to administer its charities and education?

P. Why shouldn't it? But too often in America it *won't*: for the reasons already given time and again. In America what little decent management of government charities there is, is either undertaken, as in Massachusetts, by state officials working without pay (who are very hard to get), or is forced on paid officials by the criticisms and aid of volunteer private associations.

T. Is the same true in Europe?

P. No. In the leading cities there, as a rule, the best people are called in by the governments, and in large numbers, to administer the charities. But those cities, outside of France, are not under universal suffrage, and France has not yet got very far into the habits universal municipal suffrage breeds.

T. What's your second reason why government is unfit for the work?

P. The tendency of government administration to run into socialism, communism and all other forms of robbery of the minority by the majority.

T. Well, we've seen the argument against them, now what's your third reason?

P. The killing out of the spirit of spontaneous individual sympathy, from which, as is abundantly proved, and with increasing clearness every day, more is to be expected than is possible from government charity.

T. Is the most aid to the needy supplied by the most advanced governments, or the reverse; or is there no perceptible rule?

P. As civilization begins, none of its conveniences are at first supplied by the government: the government attends only to defence and justice, "and precious little of that." In mediæval Europe, schools and hospitals were first supplied exclusively by the churches, and are in Turkey to-day; and in Catholic countries, except perhaps Austria, there is now a larger proportion of them supplied by the churches than in Germany, England and America.

T. But in Protestant countries, are schools and hospitals supplied by private beneficence or by government ?

P. Both.

T. But should government, which is the affair of all, undertake anything not needed by all ?

497. Hospitals and asylums. *P.* Hospitals and asylums, and certainly jails, are not needed by all.

T. Are you sure ?

P. Well, we all certainly do need that they should exist: so if private beneficence doesn't supply them, we have to depend on government.

T. Is government's share in them increasing or decreasing ?

P. Regarding hospitals and asylums, it won't do to say too confidently, tho it seems most probable that in America private gifts and bequests for them are gradually moving government's activity more and more into the background. In Europe, especially in Great Britain, the cities have lately been very active in improving them and placing them in beautiful grounds. In Glasgow they've even gone so far as to provide a municipal boarding-house for families whose homes have to be disinfected after sickness.

498. Relief to Individual Poor. *T.* How is it with relief for the poor ?

P. It has taken the same course as the hospitals and asylums. Private beneficence is sparing government much need of increasing its activity in poor relief ; and what is better still, various private organizations for helping people to help themselves, are even reducing the numbers of the poor, and consequently the need of government care of them.

T. Isn't there a peculiar situation in Great Britain and Ireland ?

P. Yes, there the poor-law boards are not strictly part of the government, but are elected separately, and administer funds which are supplied both by government and private benevolence.

499. Pawnshops. *T.* How is it with pawnshops ?

P. Throughout the continent of Europe, they are generally government institutions. In Eng-

land and America they have been conducted merely as private businesses until, about 1895, the "Provident Loan Society" was started in New York to serve the poor cheaper than the pawnbrokers did, and it has grown rapidly, and others are springing up.

T. What arguments are there for government pawnshops?

P. They do not make extortionate charges, and are a great aid to the police in tracing stolen property.

500. Savings-Banks. *T.* Do any governments provide savings-banks?

P. Governments providing pawnshops have, with the exception of Belgium and Holland, also provided savings-banks—in fact, the banks have been to some extent evolutions from the pawnshops, and in many countries are still connected with them. Tho, oddly enough, paternal Germany has no *Postal Savings Bank*, while all the other civilized European nations have, except Switzerland.

T. Have we?

P. No, but we seemed on the brink of starting one in the late nineties.

T. And do private savings-banks follow in the wake of private pawnshops in England and America?

P. I don't know which followed the other, but both are private, except the English *Postal Savings Bank*.

T. In countries where both are private, is there any difference in the character of the two?

P. A very great difference—greater in America, perhaps, than elsewhere. Here the pawnshops (except that of the *Provident Loan Society*) are not prominent features in any way, while the savings-banks are among the great institutions.

501. Lodging-houses. *T.* How is it with lodging-houses?

P. Had it not been for the recent boom in British municipalization (which is showing startling symptoms of collapse (478-81)) it would have been true that, as with pawnshops and savings-banks, lodging-houses also have been most freely provided by those governments—Germany at the head—which try to have toward the people a father's relation—of beneficence as

well as of control. Republican France has fewer than Germany, and most of them are partly supported from private funds.

T. But what has Great Britain been doing to surpass the Continent in this regard ?

P. Glasgow has led. She not only provides separate ones for men and women, but even has one for families. A small charge is made, and it pays a good interest on the investment.

T. How is it in America ?

P. Homeless wanderers are permitted to sleep in the police-stations, but lately our people, whose habit it is, beyond that of all other peoples, to help themselves, have begun a most important device to help the unfortunate to help themselves—and *make* the shiftless do it. There are already several places more or less like the Charity Organization Society's woodyard in New York, that will give supper, lodging and breakfast to anybody sawing his stint of wood; and they are often able to help applicants who appear deserving, to regular employment. There are also a laundry and sewing-rooms for women, on the same principles.

T. What light have these institutions thrown on street-begging ?

P. The institutions are partly supported by the sale to the benevolent of tickets directing applicants to them, which are bought and given by the purchasers to persons applying to them for charity. Such a ticket seldom finds its way to woodyard or workroom, which proves that beggars will seldom work if the chance is given them.

T. Are there no government schemes for finding work for those who need it ?

P. Yes, the paternal governments—Ger-
502. Labor bureaus, many at the head again—generally provide labor bureaus. England provides them through the "Board of Trade," a half-government and half-commercial body, and in America they took their start in connection with private charitable associations, tho the recent agitation of "Labor" for paternal governmental care, has led to the opening of labor bureaus (and mak-

ing places in them for the politicians) by several cities.

T. What illustration of "politics" was given in the Chicago labor bureau in '99?

P. They refused to give any information to employers whose men were on strike.

T. But has no good been done in America by government labor bureaus?

P. Up to the close of the century, Ohio and Illinois had state bureaus which had done enough good to the laborers, or the politicians, or both, to encourage Maryland to start one; and there was talk of having a chain of such bureaus all over the Union, which would help more idle labor to places where it was needed—"a consummation devoutly to be wished."

T. How about government itself furnishing actual employment, of course outside of its legitimate need for labor on public works?

P. France tried this in the public workshops after the revolution of '48, and made a frightful botch of it (47). More success has been had, especially in Germany and America, by lending people plots of land to work on their own hook. This has the advantage over the French system, that the laborer can't get wages unless he earns them.

T. How about insurance against being
503. Insurance, out of work?

P. Idleness before old age has been insured against only through the trade-unions and other organizations, but nearly all the nations of Europe and also New Zealand have taken some steps regarding insurance against want in old age.

T. How have they succeeded?

P. Where premiums were demanded, it has not, so far, been found easy to make the workmen pay up. Numerous German cities have helped out the sickness and accident funds of many of the workmen's societies, and Germany is now trying to get a portion of their wages devoted to insurance against the idleness of old age, by having that portion reserved when wages are paid. She does this under the partial disguise of mak-

ing the employer pay the insurance—as if he would pay that, and also pay as high wages as otherwise—which of course he won't.

T. Haven't any of the states given the pensions themselves?

P. Denmark gives one out and out. Germany and Italy add about an equal amount to whatever the beneficiary may have secured for himself. New Zealand supplements any income (or no income) that the beneficiary may have, by enough to bring it up to a fixed amount, which of course encourages everybody to spend as he goes.*

T. Hasn't anything of the kind been done here?

P. Our sailors have long had to contribute to the marine hospital fund.

T. Isn't the principle of old-age pensions a good one?

P. So far as they can be provided for by insurance during the active period of life, they are in every way desirable; but if they come as gratuities, they are, of course, a premium on shiftlessness, like the New Zealand scheme. There is danger of their becoming, like a good many other New Zealand schemes, one of the sentimental fads for giving people perfectly able to take care of themselves, something they don't earn.

T. Is insurance against idleness, illness and old age, the only insurance the governments have undertaken?

P. By no means. In Berlin, even fire insurance is a government function, and is made obligatory on all property owners. It has been proposed in London.

T. Now we've gone over about all of government work for helping the needy help themselves. Can you trace any general truths regarding it?

P. One appears pretty plainly: Germany —the place where the people grumble most against government—where a desire for socialistic change is most rampant, is the place where government attempts most for the people; and the United States, where people are, on the whole,

504. General conclusions regarding charity.

* For a good treatment of this subject see the *Review of Reviews* for July 1900, pp. 95-97.

the best satisfied, is where government does least for them.

T. Do you mean that the needy are worse cared for under our policy than under the opposite policy?

P. Not by a great deal. Apparently our people, left to themselves, do for each other, including their poor, as much as, if not more than, government succeeds in doing for any other people.

T. But in Germany, may not the socialistic agitation be the cause of the government's activity in charity, rather than the effect: so that if our people agitated more, government would effect more?

P. No: because in Germany the government's activity in charity began before the discontent became so great.

T. Does any other principle seem to peep out in our examination?

P. Well, at least an expansion of the same principle. First we saw that in early times, charity was not politics, but religion. Now we see that in the nations politically most advanced, charity, tho no longer exclusively religion, is more effective than ever before, and still is not politics—or at least is politics in a less degree than in nations under more primitive political institutions.

T. But are you sure that it's not religion, even yet? Surely a large proportion of the private support of charity comes from religious people.

P. Yes, but not in the old ways: in America there is no state church, and in England not half the people belong to one. Religious people now administer a large and increasing portion of their charities through secular bodies, and the care and subscriptions come more from a desire for their fellow man's present welfare, than for their own future welfare.

T. Well, isn't that motive worthy to be called a religious one?

P. Certainly it is: the founder of the most advanced

505 (a). *Mutual help better than government help.*

506 (b). *The Church, the State, the Philanthropist.*

religion preached no motive more earnestly. But its action in the modern secular world is a very different thing from its action through the mediæval priesthood.

T. Do you propose, then, to do away with all government charity and depend on private charity alone? Surely government cannot promote the general convenience in any more general or more necessary way than by charity?

P. Or apparently in any more wasteful and less effective way. The fact that an end is good, is no proof that any one way to it is the best way or even a good one.

T. Well, what do you propose?

P. I don't propose to be as prophetic as those who favor restricting us to either government charity or private charity. The question is too complicated to judge from anything but experience as it accrues. We have both kinds with us, and both kinds seem to result from an entirely natural evolution. The government charities can't well evolve any faster than governments improve, at least to the point of keeping charities "out of politics" by securing unpaid charity officials; and the private charities can't evolve any faster than human sympathies and Ability improve—any faster than men grow rich, and rich men grow philanthropic, both of which growths have lately been very rapid. The only plain things to do, are to improve government and improve human nature, so that *all* charities may improve.

CHAPTER XXVII.

THE DEFECTIVE CLASSES.

Teacher. What is the general cause of poverty ?

Pupil. As we have already seen (171), there is no cause of poverty. Every man is born absolutely poor. Wealth alone is caused.

T. True, but there must be some reason why people suffer from poverty rather than cause wealth.

P. Yes, in that sense, of course, temporary poverty may result from temporary misfortune, sickness and accident.

507. *The persistently poor.* *T.* We've already discussed the means of helping such cases. But some people are always poor—give them work and they don't keep it, help them up and they slip back; now what's the cause of that ?

P. Sheer incapacity—physical, mental or moral, to produce enough for comfort.

T. You say "physical, mental or moral." Won't "physical" generally describe it ?

P. Yes, if in "physical" you include a defective nervous system.

T. Now what duties in the way of taxpaying do these incapable people perform, that give them rights to have taxes spent upon them ? Isn't our whole system built up on the principle that the citizen has no rights if he doesn't perform the corresponding duties ?

P. Certainly; we've seen that that's the only way to make people behave themselves.

T. What duties does a baby or a lunatic perform ?

P. None, apparently.

T. Well, then, has a baby any rights to life or property?

P. Yes, the state grants them a great many.

T. What becomes of our whole system, then?

P. The state can be generous if it wants to, just as a parent can.

T. Well, does it all end in generosity?

P. No: the state needs citizens—sometimes even to the extent of paying bounties for large families: so it's well for it to protect the babies.

T. Does it need incapables and lunatics too?

P. No.

T. Then why not leave them to die out?

P. That question has had a great deal of very profound discussion. Leaving out sentiment, and also the chance that such a habit would soon discipline us to let some starve who ought not to, one sufficient argument seems to be that they won't "die out" when you leave them to, but that in countries where they're neglected most, they increase most. Then there's the argument that we glanced at before: states which do not take care of their incapables, don't get ahead as well as states that do. China and very backward countries generally let them starve. Civilized Europe and America take care of them. It's a very mysterious business: perhaps it won't do even to say that such people are of no use: for some very fine types of character seem to be developed by taking care of them.

T. Do you mean when the care is taken by government officials?

P. Well, that result does not seem to have uniformly followed political control of charitable institutions—in America at least; in fact, there have been a good many frightful abuses and scandals.

T. But are private institutions free from such?

P. More nearly free than the government ones.

T. Well, government almshouses and poorhouses may be considered as established beyond debate. But now when the nervous de-

508 (a). *Neglect increases the number.*

509. *The Insane.*

fects you mentioned amount to positive insanity, is the care of the insane left to private initiative?

P. Yes—in India, Turkey and China—and it was in Christendom pretty nearly to the middle of the nineteenth century.

T. What was the state of affairs in Christendom before that?

P. The poor insane were left at large or caged away somewhere in the cellars of the poorhouses, and the rich insane were cared for at home or in private asylums conducted for gain. Since then there have been some considerable asylums built from private benefaction, as well as government asylums everywhere as needed.

T. What appears to have led to government asylums so generally during the last half-century?

P. Probably their increase had a good deal to do with government's increased protection of the citizen from violence. Moreover the increased realization that criminality and insanity are closely allied, increased a tendency to send delinquents to asylums and reformatories rather than to prisons.

T. Do you mean sending *criminals* to asylums rather than to prison?

510. The criminal. P. Yes: prisons should be more like asylums. As just intimated, it has become established that criminals are only a kind of lunatics.

T. Why? Aren't some of them very intelligent?

P. Yes, and so are some of the people in insane asylums—outside of a few special weaknesses—and directions of the wind and phases of the moon.

T. This is worth looking into carefully. There are few things in which the state is farther behind the scientific world, than in the treatment of all sorts of defective people, criminals especially; and every citizen needs to get the best ideas that have been reached on the subject, and to do what he can to bring the state up to them. Now has a criminal any passions that other men have not?

P. Certainly not, unless it is the passion for goodness that inspires some rare souls.

T. Well then, do criminals sin because they have the passions that all men have—for gold or love or power, or even revenge, or because they lack the qualities that in better men keep the same passions under control?

P. Manifestly because they lack the self-restraining powers.

511 (a). *Generally defective.*

T. And what are these restraining powers?

P. First, perhaps, is a capacity of realizing consequences. The savage and the criminal live only in the moment.

T. And on the moral side?

P. Criminals generally are found to be less sensitive than normal people: they tattoo themselves to a degree that normal people cannot stand; they do not shrink as normal people do from the sight of blood; generally speaking, they are indifferent to losses—of money, keepsakes, opportunity, friends, relatives, their own children; they do not themselves know enough of pain to be deterred by sympathy with others from inflicting it.

T. Put all that in a word.

P. They are defective, just as lunatics and chronic paupers are. Anybody who has sat in a criminal court can see that, with rare exceptions, they are smaller, weaker and stupider than ordinary men.

T. Then why are they not to be treated as other defectives are?

P. The best science declares that they should be.

T. And in detail, what treatment does the best science advocate?

P. Well, it begins with Mrs. Glass's famous recipe for cooking hare: "first catch your hare"—first catch your criminal.

T. Explain a little, please.

P. First, be sure you've got a criminal.

512 (b). *One wrong step does not demonstrate a criminal.* If you catch a boy who for the first time has yielded to some strong temptation, don't send him to jail to keep company with past-masters in crime and be taught by them—don't *make* your criminal in that way.

T. You mean: let him go ?

P. Yes, after you've scared him so that he won't do it again unless he has a strong natural bent that way, or rather a strong lack of the qualities that would prevent his doing it again.

T. But suppose he has the lack, and does do it again ?

P. Then send him where he'll be treated for a cure—to some reform school where he'll be trained in regular ways, and taught self-control and some honest industry, and, perhaps most important, where he will be cured of the physical defects that are almost always found in criminals. And especially don't let him out until you are satisfied that the treatment has been successful.

513 (c). *The indefinite sentence.* *T.* Suppose he can't be taught and cured?
P. Keep him till he is—or till he dies.

T. Suppose you think he's been made over all right, and let him out, and he goes bad again ?

P. Repeat the process. By that time, tho, you'll be pretty well convinced that he can't be cured, and as you're wiser than most of our government officers, you will not be apt to let him out at all unless in time he gives overwhelming proof that he has been cured.

T. You don't seem to think much, then, of sending a criminal up for a definite length of time ?

P. Certainly not. What's the sense of supposing that the judge can tell how long it's going to take to effect a cure, or that if half a dozen men are sent up the same time for the same crime, it's going to take just the same time to cure any one as to cure any other ?

T. Isn't there a still stronger objection to a sentence that can terminate before a man is cured ?

P. Certainly: nearly all the worst crimes are committed by men who are turned loose from prison simply because their "time is up," without any reference whatever to whether they are fit to be at large. Most criminals are insane. It's insane to attempt to draw a hard-and-fast line between them and other madmen, either in diagnosis or treatment. Nobody thinks of committing an ordinary lunatic for a definite period.

T. But are the systems of punishment that we have inherited based on any idea of "curing" the criminal?

P. No: they were based on the old idea of retaliation, and on the somewhat better one of deterring others.

T. Was the criminal even regarded as defective or diseased?

P. Probably he was regarded as "the natural man."

T. Well, now that he's proved to be the *unnatural* man, how should the law be modified to fit the new discovery?

P. The indeterminate sentence is the only thing, and it should be indeterminate in fact as well as in name. Let him out as soon as he's cured, but keep him till he is.

T. It's your idea, then, that these criminal gentry should be supported in dignified retirement at the expense of honest people?

P. Yes, and that seems to be the idea of a large portion of the gentlemen themselves: as soon as they've served time on one charge, they get themselves sent up on another. Most do it, however, from sheer absence of self-control. Every penitentiary contains men serving their tenth or twelfth term. It would be cheaper to keep them steadily after their third, and save the community from their later depredations and the expense of their arrests, trials and carriage back to prison.

T. Are there any honest persons who agree with them in thinking they ought to have a life of ease at the expense of the state?

P. Yes—that, in any event, it should be one of ease. The trade-unions, the country over, object to prisoners being made to earn their own living.

T. Why?

P. Because they would be competing with honest labor.

T. What would their competition amount to?

P. Somewhere about one person of every five hundred old enough to earn a living, is in prison. Of

514 (d). *Cheaper to keep rounders permanently.*

515 (e). *Prison labor.*

course if their competition actually lowered the price of labor in proportion to their numbers (which it couldn't begin to), it would reduce wages but one-fifth of a cent on a dollar.

T. But what does the idleness of the prisoners actually do to wages?

P. The community has to support them: so the wage-earner pays his share of keeping the prisoners in idleness.

T. How? He generally pays no taxes.

P. He does, tho he may not think so: as we shall see later, taxes distribute themselves so that the wage-earner who may pay none directly, actually does pay them indirectly in increased prices of nearly everything he uses—from his house to his matches; and he also probably pays taxes by getting less wages than he would get if the man who pays wages paid less taxes.

T. How can the wage-earner be so foolish, then, as to resist setting the prisoners to work?

P. Because he thinks and knows very little about what affects his outgo, and thinks very much, tho still knowing very little, about what affects his income. His only thought is to keep wages high; he does not reflect that everything which raises wages, except the efficiency of the worker, must raise prices too.

T. Please illustrate how that works in this case.

P. A man makes one kind of goods. The prisoners could make, say, a dozen kinds that the man uses: assuming him to reason correctly that if he prevents their making the goods he makes himself, he keeps up his own wages, he nevertheless pays the higher price for the dozen he does not make, with enterprisers' and middlemen's profits thrown in, while he gets the benefit of the higher first cost of only the one he makes himself.

T. Haven't we treated this fallacy before?

P. Yes, when we talked (174) about the efforts to raise prices by scamping work or lazing, and to make every man rich by making money poor (405). This time the laborer doesn't laze himself, but he wants other people to laze, which affects him as a consumer.

T. We shall meet the same fallacy again when we come to taxation. Well now, suppose, as is undoubtedly true, that in some cases, your ideas of curing the prisoner won't work, what's to be done?

P. As I've already said, keep him till he is cured or till he dies.

T. Wouldn't it be cheaper and safer and pleasanter all around, even for him, and for the other hopelessly insane too, to turn on the gas in his room some cold night when the windows are shut?—you could turn it on from the outside, you know, without disturbing him.

P. If he woke up, he'd find it unpleasant—more so than even hanging or the electric chair, unless his window were fixed so he could open it; and if he could, the treatment wouldn't do him any good.

T. Well, there are plenty of ways of doing it pleasantly—euthanasia, as the Greeks call it, or “the happy dispatch,” as the Japs do (only they apply the term to a different mode of death). Why not use pleasant means?

P. Two reasons are urged against it: the responsibility of deciding what people to favor with it, is too great to trust our politicians with; and familiarity with the infliction of death, even if done secretly and decently and in order, is too apt to brutalize the sensibilities of the public.

T. But government decides now on whom to kill.

P. Yes, and with a stupidity more colossal, if possible, than it decides any other question, unless that of “the illiterate voter.” As a rule, it kills for but one crime, and in that connection does not attempt the question of a man's reclaimability at all. How, then, is it in any shape to decide the very delicate question of whether, on the whole, a variety of offences point out a man as irreclaimable or not?

T. Is that the only difficulty?

P. By no means. Under the present power of the boss, it might be exceedingly dangerous to enlarge government's power of inflicting death. It might not take long to virtually, if not nominally, get back to the old

ways where the death-penalty was freely used in mere political conflict.

T. But when people are ready to waste thousands of the best lives in the community in trifling wars, can't they be educated up to destroying a few hundred pestiferous lives for the sake of ridding the world of insanity and crime?

P. Yes, as we hope they can gradually be educated up to a capacity for decent self-government. But it is probable that by the time the community is educated that far, it will be educated beyond criminality—there will be no criminals to treat. Euthanasia is like the other short-cut remedies, not only for criminality but for uncongenial marriages and poverty and most of the evils that afflict society: by the time people are educated so as to be fit to handle euthanasia, free divorce, communism, socialism and the rest of the short-cut remedies, they will be educated beyond the infirmities of health and temper and judgment that make the criminality and the unhappy marriages and the poverty.

T. When you talk about that sort of education, you don't mean "book larnin'", do you?

P. Not much.

T. What we've said may all be very well as regards the scientific question of disposing of incurable criminals without waiting for them to commit what are now called "capital" crimes. But there hasn't been much question (at least lately) about the advisability of the death-penalty for the capital crimes. What do you think about it?

P. But there certainly *has* been question enough lately: capital punishment has been done away with in Michigan, Rhode Island, Wisconsin, Iowa and Maine. Iowa and Maine restored it, but in Maine at least, the restoration is virtually a dead letter.

T. What are the civic arguments (the religious ones are outside of our present studies) in favor of the death-penalty for murder, arson, etc.?

P. That nothing else is so efficient as a preventive

517. A society able to use ideal remedies will not need them.

518. Advisability of death as a penalty.

of such crimes, that life-sentences cannot be enforced, and that so far as they are enforced, they crowd the jail with people that it's more expensive to keep than to hang.

T. What are the arguments against it ?

P. That it brutalizes the community—to such an extent that statistics do not prove capital crimes less frequent where it exists; that statistics also prove juries less apt to convict in face of that penalty, and so criminals are more apt to go free; that it shuts the eyes to the whole great question of reformation; that it forever prevents the correction of a legal mistake in a trial, or the conviction of an innocent person; and, finally, Carlyle's argument that the worst use you can put a man to is to hang him.

T. Can't you compress all that ?

P. That it's not only brutal but stupid.

T. There can't be much doubt of its brutality, but brutality is sometimes necessary, even at the hands of as good men as Gustavus Adolphus and George Washington; but stupidity never is. Now as to the stupidities which statistics do not touch; first as to reformation: is there any chance of reforming a murderer ?

P. In one sense, more than in reforming most other criminals, because other criminals are not apt to be taken hold of in earnest at their first offence, while a murderer, tho it be his first offence, is reasonably sure to be.

T. But I mean: what is the chance in the nature of the criminal himself ?

P. There are so many more possible motives for killing than for most crimes, that there is a proportionally wide chance of its being committed by a reformable person; it may even be a rough form of justice, while few other crimes can be.

T. But on the other hand ?

P. Ordinarily it requires more insensibility to suffering, and therefore is proportionally apt to be the work of a defective person. As a rule, the murders are not committed by Peter Ibbetsons.

T. Now what do you think of Carlyle's argument ?

P. Well, an average man is variously figured to be worth, to an average community, ten times as much as a horse, and convict labor is generally figured as worth about a third of average labor. So your murderer if no meaner brute than convicts in general, is at best, worth (if the trade-unions will let him work) not more than six hundred dollars; and with all the usual fuss and fees, it costs more than that to kill him. But on the other hand, it costs more still to keep him alive: so Carlyle's argument is worthless.

T. But suppose he is an out-and-out defective natural-born murderer ?

P. Then it's certainly cheaper to kill him than to stand the chance of his getting out again; but even then, it would seem sensible to test his quality first, if science and politics were up to it.

T. Well, how do you sum up the whole question ?

P. It's like so many others—as long as people are brutal and stupid, they must do some brutal and stupid things. War, lynch-law, and capital punishment are really all of a piece: there is no question of their frequent necessity now—there are times and places when to do without some one of them, is to do worse. Yet so far as we advance justice and science, so far we work for the disappearance of them all.

T. Well, it's an important question, and we two can't settle it to-day. But haven't we been a little irregular in considering the care of the criminal as among society's functions for the general convenience, when it is really a matter of protecting against him the community's rights to property, safety and life ?

P. We've had more than one occasion to realize that no system of classification will group all the matter to be considered exclusively in any divisions we can make. Of course the criminal could properly have been considered when we were treating of protecting rights; but perhaps, after all, to include him with the other defectives whom society treats for the general convenience, will help us realize his true position and true needs.

CHAPTER XXVIII.

THE YOUNG ; EDUCATION.

Teacher. And now we come to a more cheerful topic, even tho it is another class of those who, begging their pardon, are defective and can't help themselves—the young, tho perhaps we ought to have considered them with those whose disabilities are temporary: they'll outgrow them. Now, when they lose their relatives, or their relatives don't care for them, are they generally cared for, in the most advanced states, by government or by private institutions ?

519. Nurture.

Pupil. Perhaps the care of orphans remains with the churches more than any other form of charity—probably largely because each church wishes to make sure of retaining them in its own membership. Moreover, the state is also saved from their care by the fact that many persons who have raised themselves from a childhood of needy orphanage to a manhood of wealth and beneficence, have endowed orphan asylums. The two causes have done much to limit the need of government activity in this respect.

T. But beyond government's limited care of the children who do not receive care from relatives or private beneficence, what has been its relation to the education of children in general ?

520. Education.

P. It presents some strange paradoxes. The two civilized governments which have been most active in it are probably the most paternal and the least paternal, Germany and the United States.

T. The paternalism of course accounts for Germany, but what accounts for the United States ?

P. The fact that the early settlers, especially of New England, contained an exceptionally large proportion of people who appreciated education, and the realization, while the government was taking shape, that universal education was a necessary safeguard against the dangers of universal suffrage.

T. How consistent are we in our idea that education is necessary to the voter ?

P. Inconsistent to a degree of absurdity before which even ridicule itself is paralyzed: while on one hand we insist that the voter must be educated, on the other we devise ballots with emblems, so they can be voted by people who can't read.

T. Are there any signs in the two countries which you say lead in education, that even so good a thing as education may be overdone ?

P. Lately there have been very portentous signs, especially in Germany, that it can be done very much out of proportion.

T. But it is generally known that Germany's splendid technical education is spreading her manufactures over the world. Where, then, is she having trouble ?

P. With hosts of men educated in the old-fashioned literary, gossip-historical and would-be-philosophical way, who can find nothing to do. Her paupers, and especially her suicides, are being largely increased from this class.

T. Are you complaining that government is spreading too much education here too ?

P. By no means—only too much of a kind that is not needed, and which on that account is perhaps doing more harm than good.

T. Well, tell us more specifically what is needed.

P. Most boys are to be mechanics, farmers and tradesmen; and all are to be voters: let them be educated as such, instead of having the education that was established hundreds of years ago for priests, and in nations where nobody voted. There's knowledge enough that can be useful in the factory, the farm, the counting-house and at the primary meeting, in debates with neigh-

521 (a) *The illiterate voter.*

522 (b). *Unusable education.*

bors, and at the polls, to take up many times the years that our boys can give to school.

T. What is the policy of the European cities in this regard?

P. They usually have excellent schools to teach the arts most generally practiced in the cities—everything from ship-building to carpet-designing, depending on what the city is interested in.

T. But do you want a boy to be merely a business and political machine?

P. A man who knows any subject well will find the borders of it touching everything else. Every science and every art are fringed with poetry: read Kipling's "Mac Andrew's Hymn" and Patrick Henry's speeches.

T. That's all very well for the boys, but how about the girls?

P. Most girls are to keep the homes and rear the families of men of moderate means: it's absurd to educate most of them for ornaments of the homes of the rich. If there's no poetry in the kitchen and the nursery, there's no poetry in Burns (I don't mean kitchen burns) or in Rafael's Madonnas.

T. Is there any danger besides unfit education?

P. Yes: in some places there has been a tendency to expand education into pauperization. Beginning very sensibly with medical attendance to prevent contagion, and sending public vehicles for the children in bad weather, to prevent colds, they have gone on to providing them with thick shoes, then with thick clothes (and thin ones if their thick ones are in a bad way), and then with lunches; and at the present rate, we can look for schemes to provide them with watches to tell when it's school time.

T. Well, what's the objection to providing the poor ones with at least the necessary things?

P. Because while it would do good in a few instances, it would do harm in more. Parents perfectly able to take care of their children are, as experience proves, only too ready to throw the burden on the state; and

523 (c). *Practical education no foe to poetry.*

524 (d). *Pauperization.*

the whole scheme shows itself to be one of those, like socialism and the money tricks, for national pauperization.

T. But surely children should have all these things?

P. Yes, but as soon as the state undertakes to go beyond taking care of defective paupers, those who *can* earn a living begin to depend on the state, to seek to rob by taxation, and so to choke off benevolence.

T. Hasn't anything been done anywhere to render poor children fit to go to school?

P. Yes: in Paris and several other large French cities there are societies of benevolent people called "school treasuries" (*caisses des écoles*) who help poor children to most of the good things we have been talking about, and many more; but they take good care, as our Charity Organization Societies do (and as no government organization will in our time), to find out where help should be given and where it should not, and not to let the other children know who the dependent ones are. But all that is voluntary benevolence, not the act of a lot of American political heelers spending money seized by mere brute force of votes.

T. Are those French societies entirely supported by private benevolence?

P. No: the cities subsidize them, as some American cities subsidize libraries, "settlements," etc. (a doubtful policy), but at bottom they are voluntary, both in their workers and in their subscriptions.

T. Well, in all these remarks, you haven't said yet whether you think education is well within the province of government, or should be left to private initiative.

P. There's no sense in gainsaying the course of evolution—it has moved education, along with charity, from the church to the state. That the government ought to supply elementary education for those whose parents can't supply it, or can't be made to, is generally admitted by all but some members of one church.

T. Why is that the position of that one church?

P. They want to have their religious doctrines im-

pressed in education. They claim that as the state can't do that for each sect, no one should be obliged to pay for state education if he would prefer to educate his children otherwise.

T. Is religion the only consideration pointing the same way? How about the state's supplying education without cost for children whose parents are able to supply it?

526 (f). Parents should pay when able. *P.* All the arguments hold against it that hold against socialism; moreover, proper education is the most difficult, delicate and expensive work human beings have to do; government, especially in America, has vastly more to do, of even much coarser work, than it can do well; hence many parents prefer private schools and claim that they should not be taxed to educate, in the public ones, children of other parents who are able to pay the full cost.

T. But as everybody should pay for those whose parents can't, how could it be arranged justly?

P. A practical division could be made by having taxpayers who send their children, pay for them directly, and by having the other children paid for out of the taxes. This would still make the taxpayers educate the children of the poor. This is done in Great Britain. All children must pay. Those who can't, are paid for by the Guardians of the Poor. Pains are taken, as by the French societies, to prevent the charity pupils being identified. The Holland system is somewhat similar.

527 (g). The higher education. *T.* So much as to elementary education. Now how about government and the higher education?

P. We have already touched upon that, when we spoke of the education that most boys and girls need. To give the higher education to the ordinary run of minds, even if they could assimilate it, is as great folly as to train ordinary horses for racing.

T. But doesn't the state need all its best minds at their best, badly enough to well afford to educate them?

P. Undoubtedly, but it is very certain that the state is not the best agency to educate them to their best. Moreover, after the state has got them through the grammar school—certainly through the high school, they can be trusted to find the rest of the way themselves: there's money waiting in all the colleges for poor students who have the pluck and talent to make their higher training worth while.

T. But besides waste and pauperization, what are the objections to government supplying the higher education ?

P. It's too delicate work for government. 528 (h). Not well conducted by political pulls. When so many of the leading universities are having trouble to find fit presidents, we hardly want the choice restricted to men with political pulls.

T. And yet hasn't paternal Germany the finest universities in the world ?

P. That's open to some question. Kaiser Wilhelm has caused the dismissal of more than one professor whose doctrines he didn't like; but despite that, in his universities the instruction is not paid for by the government, or even prescribed by it to the same extent as in our American state universities. On the contrary, the students sit under what professor they please, and the professors are largely paid by the fees of the students attending their courses, instead of by fixed salaries out of a general fund, as in nearly all our private universities.

T. Does the course of evolution seem toward or away from government providing the higher education ?

P. The conditions are very mixed, especially in Europe, so it is very hard to tell.

T. Well, let us confine ourselves to American experience. Do the state universities compare as well with those removed from government management, as the public schools do with the private ones ?

P. There is room for much question whether, on the average, the public schools compare favorably with the private ones. Some question may arise between the

state universities and the denominational universities. More can arise between the state universities and the private undenominational universities.

T. But may not that be owing to circumstances? Harvard and Yale are much older than the state universities.

P. Yes, but Johns Hopkins and Cornell and Chicago are not.

T. Why, then, are the state universities so far behind?

P. The usual reason—interference by ignorant and selfish politicians who appoint professors because of pulls, and attempt to dictate what shall and shall not be taught. Therefore capable professors generally prefer places in the universities with which government has nothing to do.

T. Does the bad condition of affairs exist in all the state universities?

P. No: there are a few exceptions. But the best officers of the best of them would be the last to compare them favorably with the universities free from state control.

T. Possibly we can learn something from those few exceptions. Speaking generally, do the state universities flourish best in old, wealthy and highly cultivated regions, or in comparatively new ones?

P. In the comparatively new ones.

T. Doesn't that suggest anything?

P. Of course. Until a community has progressed far enough in wealth, culture and philanthropy to build up great universities on foundations independent of the state, it seems on the whole very fortunate to have the state do what it can to remedy the deficiency. But that should not be taken as a finality in a new community, and still less is it a wise ideal in an old one.

CHAPTER XXIX.

GENERAL CONCLUSIONS ON THE SPHERE OF GOVERNMENT.

Teacher. This is about all we have time to consider in detail regarding government's promotion of the general convenience. Now, at the risk of some repetition (which the pressing importance of the subject justifies) let's sum up. Has the number of conveniences supplied by government been increased suddenly by some specific circumstance, or has it apparently been evolved from general causes?

Pupil. It appears to be a natural evolution, being, on the whole, considerably farther advanced in the highly evolved nations than in others.

T. Does this growth appear to follow any well-defined lines?

P. Yes: the objects first coming under government care are generally the natural monopolies—like streets and roads, with the rails and pipes that may be laid in them; and other matters too large for individuals or private corporations.

T. Under which head do you put railroads, water-works, lighting works?—all those things have been done by private enterprise.

P. Yes, but as they are naturally monopolies, they have tended to become extortionate, and the communities have sometimes been driven to assume them in self-defence: even the railroads have needed legislative regulation of their prices.

T. Yet hasn't there been grave doubt of the wisdom of government's providing anything but national defence, protection of rights and maintenance of justice?

529. Individualism
and collectivism.

P. Yes, from very early times, it has been perhaps the most prominent question dividing students of government.

T. What can you contribute to its solution?

P. A few rather interesting facts. One is that there is a growing realization that when wise men differ, both are apt to be right. Another is that the great Aristotle, who was the first systematic writer on politics, himself took both sides. Another is that those who have held what is sometimes called the restriction theory, are finding it harder and harder to draw the line. They have about all admitted the necessity of government money, mails, roads, harbors, lighthouses, surveys, almshouses, health boards and many other things, and have thought it well that government should provide that no one need go grossly ignorant or dirty.

T. What have been the main objections urged against government undertaking so many things?

P. First that people helped too much by government lose the tendency and the ability to help themselves. Second, that the more government has to do—the more money it has to spend, the more danger of its becoming corrupt and tyrannical.

T. What is to be said on the first objection?

P. That there is very little experience to learn from. Governments have not, anywhere been doing most of these things long, and some of the governments that have done most of them have long been doing other things which would alone account for any lack of independence there may be among their peoples,—such as keeping up a very rigorous and minute police control.

T. How do the leading countries stand in these respects?

P. The situation looks paradoxical. We have our merits as a nation, and so far we have municipalized least among the great nations. Up to about 1885, when railroads, pawnshops, hospitals and schools had been the main conveniences cared for by government, the order of the other nations in degree of municipalization, probably would have been Germany, France and Great

Britain. But more recently the increase of municipalized street railways, water, gas, electricity and poor-man's homes, has probably put Great Britain, especially Scotland, at the head; and the independence and initiative of the people stand in about the same order with the municipalization of public works.

530. Municipalization increases with independence, decreases with police control.

T. In what order would these countries stand with reference to minute police control?

P. Probably in the reverse order.

T. Is there any evidence, then, that municipalizing so many things has done any harm to the character of the people?

P. No, but it's early yet to judge.

T. Now as to the second objection—the temptation to corruption and tyranny. What does experience show regarding that?

P. It's hard to tell. As a matter of fact, in Great Britain and Germany, where they have probably the best local governments, there is most municipalization; and in America, where we have unquestionably the worst local governments, there is least municipalization. The English experience seemed all one way up to the late nineties, when, as we have seen (481), a great reaction set in. That may only be needed to correct abuses incidental to new experience, and municipalization may progress all the more.

531. Increases with good local government.

T. But as between good government and municipalization, which is cause and which is effect?

P. Probably both: there do seem to be some faint indications (tho far from enough to prove anything) that the more government has to do for the people, the more likely are the people to take care that it shall be done right (444, 459, 469).

T. As a matter of fact, hasn't there recently been a great increase in the number of things done by government, and a widening of the field allowed to government by the restrictionist philosophers?

P. Yes.

T. Well, now, while these two things have been increasing, has there been an increase in any third thing which may account for increase in the first two ?

P. Yes, the art of government has, on the whole, been growing.

T. What then would seem to be the conclusion ?

P. That, as we've so often said before, what government can wisely attempt, depends on the government. The municipal governments of England can wisely do things that the municipal governments of the United States cannot; and those of the United States can wisely do things that those of Turkey cannot.

532. Necessary limits. *T.* If everybody needs a thing, is that a sign that government should supply it when people can supply themselves ?

P. On the contrary, everybody needs food, clothing and shelter: yet we've seen abundant reason why government should not supply them to those who can supply themselves.

T. But suppose government were to supply them, and make people pay for them: then the pauperization objection wouldn't come in; and on the principle that the big industry cheapens product, couldn't government, by doing it all, do it enormously cheaper than it's done now ?

533. Effective industry requires competition. *P.* The big industry does not necessarily cheapen product, unless it works under competition: only then will all poor management be weeded out, and prices kept down.

T. If favoritism appoints poor management under competition, why will it be weeded out ?

P. Because the best competitors will inevitably drive the poorest out of business.

T. Isn't that pretty hard on the poorest competitors ?

P. Not as hard as it is on the whole community for them to stay in.

T. We will grant, then, that universal demand for a thing that can be supplied by competition, is not a reason why government should supply it, even if the consumers pay for it. Now how about things that

cannot be supplied under competition—the natural monopolies ?

534. Mainly determined by natural monopoly. *P.* There the argument is entirely different. Tho the government would not have competition to stimulate good management and cheapness, private control would not either; and private control would have more inducement to keep prices up: therefore there seems a chance that government might manage as well as private control, and many chances that it would supply more cheaply.

T. But why should it charge at all ?

P. Because, as not everybody necessarily needs the product of all the natural monopolies, people should pay in proportion to what they use, and they can only do that direct, not in the way of taxes.

T. But people don't pay only as they use them, for roads, bridges, streets and street lights, museums and parks.

P. But they do pay as used, for ferries, some bridges, postage, water and domestic gas and electricity.

T. But don't they generally pay for water in the way of taxes ?

535. Tax for commodities universally used, charge for others as used. *P.* Yes, pretty often; but there's a reason why they should: for everybody needs it. Yet, tho they don't pay for each gallon when delivered—as they do for each postage-stamp, in a great many places they do pay by meter, and where they do not, they generally pay by the number of outlets, or the size of buildings, or some other proportional adjustment.

T. Is there any agitation for providing water, and not only water but lots of other things—even street-railway fares, and for that matter, steam-railway fares, free to everybody?

P. Yes: it begins with agitation for unreasonably low fares, or for free transit for "Labor" to and from work; and it's really of the same piece with the agitation for making lunches and clothing free to school children, and in fact, everything free to everybody.

T. Well, that would be very lovely, wouldn't it?

P. Nothing could be lovelier, if there were any way of producing things without material, plant and labor, but there seems no way of getting them free.

T. And who wants to increase the cheap things and the free things provided by government, and cares nothing for the taxes necessary to do it?

P. The non-taxpayer of course.

T. Well, what sort of conveniences, and what sort alone, and under what conditions, is there no fatal objection to government supplying "free"?

P. Matters of natural monopoly, that virtually everybody uses, like roads, streets, and street-lights, and a few other natural monopolies like some bridges, which, tho many people use seldom, are of the greatest importance when needed, and which could not pay for the expense and trouble of collecting fares.

T. And what should government care for, and collect for the use of?

P. Important natural monopolies which are of frequent, tho not universal use, which the state of politics will enable it to manage without undue corruption.

T. And even if we repeat good doctrine, why such things only, under such conditions only?

P. People must pay for other things or be pauperized, and where there is not a natural monopoly to make competition difficult, they would get them better and cheaper under private competition than from government.

T. And what would be the net result if government tried to supply them?

P. Just so far, the stimulus of competition which has evolved civilization would be withdrawn, the essential features of civilization, would begin to disappear, and we would start back toward a condition of status and savagery.

T. To sum up then, does there appear to be any plain line where the best government must ultimately stop?

536. Government service outside of monopolies demoralizing to people and officers.

P. Yes, just where it will interfere with private competition and the rewards of Ability, both of which stimulate and encourage Ability to provide goods in greater variety, attractiveness, reliability and cheapness than political management could.

T. And how have we seen that government's undertaking too much affects both the government and the people?

P. The more power government officers have to do things for the people, the more power they have to do things for themselves instead of for the public; and in any civilization yet evolved, officials are apt to use such powers for their own profit, and to the robbery and oppression of the people.

CHAPTER XXX.

AMERICAN MUNICIPAL DIFFICULTIES.

Teacher. Is our own civilization entirely beyond such dangers ?

Pupil. By no means. The government of many American cities has long been among the most corrupt—quite possibly the most corrupt, in the civilized world; and since the civil war, the general government of the United States has been rapidly falling into the same condition—as was pretty well shown in the Spanish and Philippine wars and the Cuban post-office.

T. Can you give some illustrations from the principal city ?

537. New York
in 1870.

P. In New York shortly before the year 1870, an enormous amount had been done in the way of public improvements. It was then found that for a long time nearly everything bought for city use, and nearly all work done on the streets, parks, aqueducts and public buildings had been charged to the taxpayers at many times its cost, and the difference stolen by the chief officials.

T. How was it with the under officials ?

P. From what small portion of the taxes was actually paid to workmen, they had been made to pay back a part to the men who employed them, as a condition of getting and keeping their places. In the same way, the persons receiving these contributions, had to pay the officials just above them, and so on up to the highest officials of all.

T. But did the money so paid, come out of the tax-payers ?

P. Certainly, because the work was really done for only what the workmen were able actually to keep for themselves. The rest could have been saved if it had not gone into the pockets of the politicians.

T. What was done when the state of affairs was discovered ?

P. The government was overthrown, a great many of the criminals fled, and the chief one, William M. Tweed, was put in prison, where he died.

T. Was the cure permanent ?

538. New York
in 1894.

P. No: by 1894 things were found to be just as bad, but principally by different methods. The officials helped demagogues and sentimentalists to get a law passed enabling corrupt officials to pay the city laborers more than the same class of laborers could get elsewhere. Then the officials made the laborers hand over the difference.

T. Was the legislature corrupt too ?

539 (a). *City works
are the plums of
rural as well as
urban politicians.*

P. Yes: each political party in the whole state was under the management of corrupt men who made the politics of city and state, work together for their profit.

T. How came the legislature to share the corruption of the city ?

P. There is so much public work done in cities, that the possible spoils are very rich: so corrupt politicians in the legislature are always ready to join the corrupt politicians of the cities in seeking them. This is an added objection to increasing the number of things done by the cities.

T. How does the political plunder to be had from cities, compare with that to be had from national sources ?

P. The money collected by taxing municipalities, large and small, is over three-quarters as much as that collected for the government of the nation as a nation, including all civil and diplomatic officers, army, navy, lighthouses, harbor improvements, and national works of every kind.

T. But you say the national taxes are a third larger than the local. Which sum, then, represents the more “swag”?

P. Local taxes, by all odds: for very many of our municipal governments from New York City to the villages, are corrupt, while on the other hand, politics has been kept out of our navy, and until lately almost out of our army, and out of many other departments of the national government.

T. What do you mean by “politics has been kept out”?

P. Appointments have not been generally made by “pulls,” but have been made with reference to fitness.

T. But can’t plundering be prevented by imposing heavy penalties on public officers being corruptly interested in municipal work?

P. Simple as it is, plenty of people don’t see the point. It is frequent for the leading contractor of a village to be an officer regulating the public works. The charters of some cities provide against it, but the wrong-doing officers can cover up their tracks.

T. What were some of the new schemes of plunder in controlling public works, devised in New York after the election of 1898?

P. The department whose duty it is to regulate buildings for strength and safety against fire, was made to favor certain materials in preference to others; and the politicians and their families were found to be largely interested in the manufacture of these materials.

T. Pity the same politicians were not required to build a larger number of houses for the poor! Wasn’t it? Now what circumstance does most to make it easy for politicians to profit by public work under American local governments?

P. The good people of cities are so ready to divide according to their national parties, that it is hard to unite them solely on questions affecting the localities. Meanwhile the bad people keep together to plunder.

T. What excuse have the good people for dividing?

540. New York
in 1898.

541. National parties
in local affairs.

P. A desire to keep their party organization active for national questions.

T. Is that really necessary?

P. No: there is no means by which the corrupt politicians (and occasional honest but stupid ones) fool the people more and plunder them more, than in leading them to carry national questions into city politics.

T. Illustrate, please, how the thing works.

P. Between the civil war and the Spanish war, the principal national questions were between protection and free trade, and between good money and bad money. Those who believed in the first of each were Republicans, the others Democrats. Now, in virtually every city, town and village in the land, when people wanted officers to care for their streets, water, sewerage, health, police and petty courts, they selected these officers, not with reference to the work they were to do, but nominally at least, with reference to their opinions on the tariff and on silver. Soon after the Spanish war, local officers began to be selected with reference to "imperialism."

T. What accounts for this ridiculous state of affairs?

P. The same things that account for most ridiculous states of affairs in politics—First, of course, ignorance and venality; then some defects in organization; and mainly, as is so often the case, an outgrown situation kept alive by interests that have become established under it. When our national government began, its tender and precarious life was the one absorbing object of public interest. Cities were small, and many of the things now attended to by their governments, unknown. The one object of political faith was national party, and fidelity to it was put on a par with honor and religion. This spirit is not dead yet, especially among the stupid and ignorant majority, and it is kept alive there by the party managers who find their profit in it.

T. Didn't the Fathers give us a special legacy in the Constitution which helps bring the national parties into local politics?

P. The election of United States senators by the legislatures, forces the national parties to struggle for possession of the state legislature; and therefore, as long as state and city functions are so mixed that the legislature takes a considerable part in city affairs, so long must the national parties be interested in city matters.

542 (a). *Partly caused by method of electing U. S. Senators.*

T. How would that interest be affected by local measures?

P. Once the national parties are in state politics, every question of state policy naturally gets under the wing of one national party or the other. For instance, a liquor law or a Sunday-closing law, has got to be carried out by the local police and magistrates; or an idea in education—such as Bible-reading in the schools, or the prevention of truancy, has got to be carried out by the local school superintendents. So the party taking up any one of these measures must not only control the state legislature, to get its law enacted; but to get it enforced, it must control the local magistrates and police, or superintendents of education. Therefore so far as these officers are appointed by mayors or village presidents, and confirmed by city councils or village boards, so far must the parties advocating the measures, struggle for the election of those local functionaries.

T. Well, suppose all those minor local officers were state officers, and that mayors and city councils had nothing to do with them, wouldn't the parties advocating measures which the officers must administer, struggle to get the officers all the same?

P. Yes. But if they were state officers, either they would be appointed by the governor: so the state parties need not run any candidate but the governor, while the mayors and city councils, etc., would run on purely local questions; or if such state officers were not appointed by the governor, they would appear only in state elections, and not in the local elections which it is a growing custom to hold distinct from the state elections: hence they would no longer tempt the national parties into nominating and working for the local elections.

T. But as long as the local spoils are so rich, won't they be temptation enough, even if the other temptations were removed?

P. For a good while, probably; but certainly the more we reduce temptations, the more we reduce the time that it will take to evolve wisdom and honesty superior to them.

T. But when our national party managers have the impertinence to make hack nominations for local offices, why don't sensible people make nominations of their own?

P. They do sometimes, but then the party bosses generally unite to defeat the non-party candidate. Our author declares that in the old days of party election-booths, once when there was a non-partisan ticket in the field, he himself saw Republican ballots dealt out from Democratic booths.

T. Has the subordinating of home questions to state and national questions, ever benefited state and national questions?

P. On the contrary, the mixing of home politics with state and national politics, has led the corrupt politicians, for the sake of city spoils, to just so much more improper efforts to control the state and national governments. The practice works harm in both directions.

T. How have all the great reform victories in the cities been won?

P. By wise people voting together in local matters, without any regard for their national politics.

T. But after all, must we wait till every voter is intelligent and honest enough to do that, or until we can amend the Constitution of the United States so as to elect senators by popular vote, before we can abolish the interference of national parties in local elections; or can we do something toward it by simpler methods?

P. Professor Goodnow* suggests that the temptation to interfere would be diminished by lessening party control over municipal offices,

543 (b). *Corrupts both national and local politics.*

544. *Civil Service Reform as a remedy.*

* "Municipal Problems."

through increasing the proportion of offices filled only by appointment, and also those that can be filled only upon examination, and whose tenure is permanent during good behavior. Long tenure of office is nearly universal in the cities of Europe, especially in the working staff. A German burgomaster is a professional expert who generally holds his place for life, except where one in a smaller city makes a reputation that leads to his being called to a greater one.

T. That seems sound enough. Any other idea?

P. Yes, Professor Goodnow also suggests something more easily effected, perhaps—
545. State functions to the state, local functions to the locality. separating state functions and city functions, as far as possible, just as already in some states, state and city elections are separated. This would lessen the number of matters—such as street railways and gas and water companies, which the state legislature can control; and on the other hand, would take away from local administration and give directly to state administration more matters of purely state policy, such as the cure of the defective classes, including education, the liquor traffic, the administration of justice, and the preservation of the peace.

T. Where would the line of separation fall?

P. On one side the state could attend entirely to those things which it would naturally attend to if there were no such thing as a city. On the other side, the city could attend entirely to those things which exist solely because the city exists. If the state were entirely rural, and there were no local governments, the state government would care entirely, as it now does partly, for the preservation of order, the administration of justice, and the care of the defective classes, including the education of the immature. When a city grows up, it brings the new needs of elaborate laying-out and paving and lighting of streets; of railways on, over or under them; of water-supply and sewerage; of regulation of buildings; et cetera. Let state and city each care for its own. City children have to be educated, and city poor and insane cared

for, as do country ones, but it's properly a state function. So do city quarrels have to be adjusted in court, and city criminals restrained and punished, just as country ones do, but that too is a state function.

T. Well, is that division as clear as it seems? Is there sufficient historical warrant to call education, for instance, a state function?

546 (a). *Education.* *P.* Hardly in America, at least, though there is in Prussia and France, and (though only comparatively recently) England. But in America, local provision for schools was well under way before the localities were consolidated into states, and education has been mainly a local matter ever since, with more or less supervision and assistance from the state.

T. But isn't the state relation to it growing?

P. Perhaps it is, at least in the development of state universities by the newer states; there are state superintendents in several states; and even in so old a state as New York, there is a state officer called the Superintendent of Public Instruction, with very large supervisory and advisory powers regarding the local schools, and there is a strong tendency to enlarge his powers. Toward the close of the century, considerable agitation of the subject was going on in New York, because of the usual corruption of city government invading the school boards: so although America began with local public education, state public education may, after all, be the logical thing; and if it is, of course, evolution tends toward it.

T. Do you notice that you suggest a new reason for the state keeping control of all functions not necessarily a part of the evolution of a city?

P. Yes: corruption grows in cities, especially in things that do not, like streets, water, etc., come under every citizen's notice.

T. How is it with police?

547 (b). *Police.* *P.* They again, like education, have held a double position. In France and Germany a state police is a matter of course; and even in England, despite the tradition that strong local

government is the very basis of Anglo-Saxon liberty, the police were made a national body by Sir Robert Peel (hence the name "peelers") with great improvement in the maintenance of order, and half the expense of them is contributed by the nation. Massachusetts has had satisfactory experience in the same direction, and the corruptions in the cities of New York state, as well as the fact that maintenance of order is logically an ancient function of the state—of the chief law-making power, have led many thinkers to advocate a state police there.

T. You spoke of the administration of justice: isn't that, as well as the maintenance of order, a state function already?

P. In cities, generally only so far as concerns the upper courts. Many cities have courts for small cases—inside of a thousand or two dollars, which are not part of the state judicial organization. Most judges, even of state courts, are elected in localities, and the police magistrates in the cities are generally appointed by the mayors. It would probably be an improvement to make them all state officers.

T. But how could New York City, for instance, have its affairs so largely administered as you propose, by a lot of people sent from Albany; or how could Chicago, by people from Springfield?

P. The men need not be sent from the state capitals, any more than the officers of the post and revenue and United States courts, are sent from Washington. Their being state officers is merely a question of how they are put into office, and to what heads they are responsible: not of where they lived before taking office.

T. Are American local governments more corrupted by national politics than those of the rest of the world?

P. We are worse off than the best of it. In England, local nominations by the national parties, instead of being the rule, are the rare exception, tho unfortunately there are signs of their increase. Yet so far, not half the municipal offices are even

548. America alone
in confusing local
and national politics.

contested, and probably half the elections are re-elections for good service. Here the parties contest every election, and generally give an inexperienced man his "turn."

T. How is it on the continent of Europe?

P. In most of the cities of the Continent, the system itself hardly admits of such a thing: for a considerable part of the municipal legislature is elected by special members of the community eminent for knowledge or Ability, who would not think of national politics in the connection.*

T. Aside from the method of electing senators, are there no other causes of political corruption in our history and character?

P. Our early government was founded by an exceptional set of people among whom a working democracy was not inconceivable.

549. Vast American wealth and good nature promote carelessness.

Thus, tho they were far from beginning with a system of universal suffrage, that system gradually grew up, and the increase in our ignorant classes has made it a very different thing from what the fathers expected. Moreover, the United States, being a comparatively new and thinly populated country, has such vast masses of untouched wealth in its mines, such vast tracts of cheap forest and land for tillage, and such immense opportunities to trade in the products of all these, that the people are all engrossed in making money, and give less heed than Europeans must, to saving it. Tweed said that nobody in New York would stop to protect a dollar from the politicians, as long as he was left another dollar to trade with.

T. Is this fairly true?

P. It is something like the truth. Not only in New York, but throughout the country generally, it is the disposition of the people to neglect their government and let it fall into the hands of corrupt men, and to carry their differences on national questions into home

* On these points and on the composition of European municipal governing bodies, Shaw is invaluable.

politics, until the taxations and oppressions become too heavy to be borne; then the people arouse themselves and make a change, and then gradually relapse into the bad ways again.

T. But with all the carelessness of American cities, are their debts larger than those of European cities?

P. Not always, but the European cities have something to show for their debts that ours have not—street railways, docks, gasworks, markets, abattoirs, improved tenements, lodging-houses, baths, assembly-rooms and lots of other things—many of them, even the cemeteries, sources of income. Our debts to a large extent represent merely the stealings of our politicians.

T. Is there any other national characteristic that keeps our municipal administration poor?

P. Yes: our proverbial good nature. We don't "kick" enough. So wise a man as Herbert Spencer blamed us for this. Perhaps we are so sure of our more important rights that we are careless about mere conveniences. If we would make it a duty to complain of cars not stopping, or being overcrowded, and of sanitary violations, etc., we would make a vast improvement.

T. But wouldn't a poor fellow in a tenement-house get himself into trouble if he complained of his landlord?

P. In Paris the health authorities invite all people to mail them *unsigned* complaints.

T. But if our capable people were less careless of their political duties, are there enough of them to make much difference?

P. They could through their watchfulness and influence, tho perhaps not through their votes: for the ignorant are more and more crowding into the cities, especially seaport cities; and in New York at least, Tammany is organized to corrupt them by charity, on the old plan of "bread and circuses" that helped destroy Rome. It has an agent in every district where the poor crowd, whose function it is to befriend them in all possible ways.

550. Corruption of voters under the guise of charity.

T. Well, isn't that a good use to make of the spoils?

P. But a small portion of them go that way. It is simply a plan to use a little in order to get more.

T. But doesn't the reform element really spend vastly more money for the benefit of the poor, than the political organizations do?

P. Of course—all the vast charities of the cities are supported by people who generally vote against the corrupt machines, but that fact is not felt by the poor man. The charity of the political machine comes to him in the name of the machine, and what is of perhaps even more consequence, it comes through a jolly sympathetic neighbor of his own class, who knows him personally and drops in at his home. The great charitable institutions naturally render their services in a more or less routine way, through strangers, and from offices more or less remote.

T. Well, why don't the people who actually support the real charities, use a part of their funds as Tammany uses a part of its funds?

P. Partly because they're too busy making more funds, but mainly because, after all, it is not honest to work politics under the mask of charity. They are, however, in many cities, carrying their benevolence and educating influence right home to the poor through the various "settlements" started by the universities, and now taken up by many other agencies.

T. But what sense is there anyhow in
551. Proletariat voting. permitting people who don't pay taxes to vote away the property of those who do?

P. None whatever. In the European cities, which are far in advance of ours, however wide the suffrage may be in national matters, probably not half the men vote for city officers. In Great Britain, the Low Countries, Germany, Austro-Hungary and Italy such an absurdity as universal suffrage for city officers is unknown, except in the very rare cases where a non-taxpayer's educational qualification prevents his voting being absurd; and it is in those countries that cities are best and most fully developed, and do most for the health and happiness of

the very people who are not permitted to vote. Even in the villages of New York state, and in Texas, at least, nobody can put a locality in debt for public improvements without a vote of the taxpayers.

T. Which is the older practice?

P. To have improvements voted only by taxpayers. It looks as if the other practice had been worked into existence as cities increased, by the politicians expecting to secure the spoils of the cities through the votes of the proletariat.

T. But isn't there a good reason why the practices of the smaller local governments in this regard cannot be carried out in the cities?

P. There is a reason, tho not necessarily a good one: the taxpayers of the towns and villages vote on each appropriation that is not a mere matter of routine—like officers' salaries and ordinary running expenses. It would certainly be much more difficult to have that done in cities.

T. What very authoritative substitute has been proposed?

P. In 1875 a very eminent commission appointed by Governor Tilden of New York, reported in favor of each city having a Board of Finance to be elected by taxpayers alone, who should regulate all expenditures.

T. Why was not so reasonable and ingenious a measure carried?

P. Of course the politicians didn't want it: it would spoil their trade: so they raised the cry that it was against universal suffrage.

T. Well, wasn't it?

P. Against the absurdities of universal suffrage, of course, but not against its legitimate claims.

T. And what are those?

P. Simply that every man shall vote for the officers who protect his life, liberty and legitimate pursuit of happiness. Paying the officers, and deciding upon spending money on conveniences, are other matters, which can be vastly

552. Tilden Commission's proposed remedy.

553. Local suffrage rights differ from others.

more safely and reasonably left to those who must do the paying, and who have proved that they can handle money wisely. If it were so left, the poorer man would be all the surer of good officers to protect the set of rights which are as much his as anybody's. This is the plan in the cities which lead the world in administration, convenience and care for their poor—in Great Britain, Germany, Austro-Hungary and Italy. Even taking the extreme view that a city should be largely a charitable institution, it's not very sound policy to let a charity institution be run by the beneficiaries.

T. How about France?

P. Those who know Paris under universal suffrage, and knew it before, say that it has deteriorated.

T. How do they tackle the difficulty in Germany?

P. Prussia lets only taxpayers vote for city councillors, and (as is quite generally the case in Europe) the councillors elect the executive officers—burgomaster, etc.

T. But does the suffrage arrangement end with letting only taxpayers vote?

P. By no means. A graded list of taxpayers is made, beginning with the one who pays most. Those who pay the first third of the taxes, elect one-third of the council, and those who pay the second and the third thirds of the taxes, respectively elect the other two-thirds of the council. Taking Berlin's election of '93 as an illustration, the three portions of the council were elected respectively by 2 per cent., 11 per cent., and 87 per cent. of the taxpayers.

T. What indication was given of the faithfulness of these respective classes of taxpayers to their civic duties?

P. Of the wealthiest class, 46 per cent. went to the polls; of the middle class, 37 per cent.; and of the poorest class, but 26 per cent.

T. Now to be fair, isn't it probable that the less wealthy classes were so poorly represented because they felt their influence was so slight?

P. If so, they would do well to meditate the parable

of the talents. To be equally fair, isn't it possible that they staid away because they are not as capable as more Able men, of appreciating the reasons for going ?

T. Is that arrangement restricted to the Prussian cities ?

P. Vienna has something like it, but it is not popular—at least among people who want to spend other people's money.

T. What has been the actual experience of having the non-taxpayer vote regarding city expenses ?

P. So far from the non-taxpayers' votes being necessary to secure them proper accommodations in cities, there's no sort of question that throughout the civilized world, they get best accommodations—good living, education, parks, baths, gymnasiums, concerts, where they have fewest votes; and where they have most votes, they elect most people who steal the money that ought to be devoted to the voters' benefit, and alienate moneyed people from city improvement.

T. Well, do you think there's any chance in our country of taking the suffrage away from the ignorant and shiftless for their own good ?

P. Not as much perhaps as there is of curing their ignorance and shiftlessness. Those are at least things that anybody can begin on any day, and it's hard to tell how to begin elevating the suffrage.

T. What is the bearing of all this long history that we have been going through, on the question of government taking hold of many kinds of work for the general convenience ?

P. It seems to prove what we had already reasoned out on general principles—that in America, at least, we had better move very cautiously in increasing our kinds of public work. Public works are the great source of public spoils. If we were to try to have all the good things that the best European cities have, we should simply succeed in throwing more food to political corruption, and thus to a large extent spending our money without getting what we spent it for.

T. If all good citizens were alive to their political

duties, would those duties demand much care on the part of each ?

P. No; then the community would be pretty sure to take the ounce of preventive where it now has to pay for the pound of cure; and it would moreover be saved the heavy taxation between the times when the preventive ought to have been applied, and the times when the cure must be.

BOOK III.—TAXATION.

CHAPTER XXXI.

GENERAL CONSIDERATIONS.

Teacher. What essential to both general functions of government—protecting rights and (with due caution) promoting convenience, still remains for us to consider?

Pupil. Raising the money to pay expenses.

T. Are taxes the government's only means of securing money?

P. The only ones we have time to consider; but a little of its income comes (I) from *sales*—of public land for instance, or of monopolized products—like tobacco in France and Italy (tho that is really a form of taxation); (II) from *finer*: in barbarous times and places this is an important and much-abused source of revenue; (III) from *fees* of sundry officers, and (IV) from assessments laid on property for neighboring improvements, such as streets, sewers, parks, etc. But these all amount to little compared with the revenue from taxation.

T. As raising revenue is of course merely incidental to the main functions of government, are we to conclude therefore that it is less important than the others?

P. By no means: it does more to make history than any other: questions of taxation have probably done more to cause

554. Interest and Importance of the subject.

civil wars and to overthrow empires, than all other agencies combined. A few instances among many, are the wars in England under the Stuarts, our war of separation from England, and the French revolution. That revolution overthrew the French monarchy, and bad taxation rotted out the Roman empire. Even to our own civil war of 1861-5 the question of "protection" contributed not a little.

T. And yet young people generally regard questions of taxation as dry and uninteresting. What's probably the reason?

P. Why they've never felt the shoe pinch themselves. They don't have to pay the taxes out of their pocket-money or allowances. Still less do they realize, if they are restricted in their amusements, or even in their food and clothes, that taxation has anything to do with it.

T. Well, how *has* taxation anything to do with it?

P. That's just what we're going to wade through many pages to explain: so I can't put it in a sentence.

T. Well, isn't it plain enough that you can't spend in amusements, food and clothing, what you spend in taxes?

P. Yes, but it's not so plain, tho it's as true, that a very large part of what is spent in taxes, especially in the United States—more especially here than in England, France or Germany—might just as well be spent in amusements, food and clothing, and the government be all the better for it.

T. Well, I hope that's paradoxical enough to arouse curiosity that may help us in our "many pages." Now what makes taxation so important?

P. Many men never have occasion for government's protection from violence or robbery, but substantially every man is taxed, whether he knows it or not. Taxation takes, on an average, one-twelfth of the earnings of each American citizen.

T. What—if he owns no property to be taxed?

P. He's taxed if he eats sugar or wears wool: they are taxed, and he has to pay more for them on that account. The same is true, directly or indirectly, of most

555. Everybody
pays taxes.

other things that he uses—some authorities think of everything that he uses.

T. We will look later into the question of how taxes are shifted from the man who first pays them, on to others. Now how does the portion of the American income that goes in taxation compare with that in other countries?

556. Rates in different countries.

P. The American pays about eight and a half per cent. of his income in taxes; the Belgian a little over six; the Englishman about seven and three-quarters; but the Frenchman, with his big standing army, eleven; and the Italian lately, with his wasteful colonial fighting and domestic discords and scandals, fifteen or sixteen.

T. Does it make much difference how the amount needed is collected—provided the expenses of collecting are the same?

557. Methods influence rate

P. Immense: especially as the way it is collected largely determines whether the expenses *will* be the same. The difference in the systems of taxation probably makes more than the differences of rate against us as compared with Belgium and England: for with our ordinary small military expenses (omitting the pension scandal and the little Spanish and Philippine flare-ups), and our colossal resources, a wise system of taxation ought to make our rate far the lightest in the world.

T. Aside from the system affecting the rate, can it affect general well-being in any other way?

558. and morality, prosperity, peace, stable government, and even health and life,

P. Almost without limit. A bad tax system is a powerful foe of popular morality—some people think the most powerful. You can tax flood or pestilence into a community, or you can tax them away. You can tax an industry out of existence and throw the workmen into idleness and want. On the other hand, you can, in a sense, tax an industry into existence—by taxing a competing industry out.

T. How taxes can produce revolution, rot empires, and affect industries is perhaps fairly plain, but that

seems very remarkable about flood and pestilence: can you prove it?

P. There was once a tax on quinine that limited its use by the poor; and the high tariff has kept out Canadian lumber to a degree that is stripping woods from many places where they are needed to prevent the snow from melting too fast in Spring, and flooding the rivers. Raising the revenue from improper sources has brought these evils upon us, and raising it from proper sources would tax the evils away.

T. How can taxation affect morality?

P. By tempting people into dishonest and even violent practices to avoid it.

T. But isn't that simply an objection to all taxation?

P. No: as we shall see, some forms of taxation tempt to dishonesty much more than others. Adam Smith says that bad tax-laws "tempt persons to violate [them] who are frequently incapable of violating those of natural justice, and who would have been in every respect excellent citizens, had not those laws made that a crime which Nature never meant to be so."

T. Do taxes affect the movement of Capital and Ability?

P. Yes: if you happen to be a socialist or a communist or populist, or any other sort of an "ist" opposed to accumulations of Capital or the leadership of Ability, you can (if you have your own way) tax them away from any community.

T. Suppose you are so little of that sort of a "friend of humanity" that you think Capital and Ability good things to have around?

P. Then you can attract them to your state by tax-laws wiser than those of other states.

T. Do you mean that laws which attract Capital and Ability are necessarily wise?

P. To attract them permanently, laws must be wise: for the attempt to attract them by unwisely favoring them at the expense of the poor and stupid, will be certain, in the long run, under free institutions, to awaken

559. and movements
of Capital and
Ability.

reactions, like those in the granger states in the last decade of the nineteenth century, which drove Capital and leadership away, and left people starving for lack of them.

560. Taxation and civilization.

T. Of course the money for government expenses has always come out of the people ?

P. By no manner of means: the primitive idea was generally to get as much as possible out of the stranger, and that idea is not quite dead yet.

T. Explain, please.

P. The great nations of antiquity paid a considerable share of their expenses from plundered provinces; Arab tribes from time immemorial have levied tribute on caravans; the robber barons of Germany taxed the traveler; even down to Spain and Cuba, not to speak of the United States, Porto Rico and the Philippines, nations have milked their colonies; and one of the arguments of high-tariff advocates to-day (tho a disputed one), is that the stranger pays the tax.

T. Well, when tax-money can't be got from the stranger, but must come out of the people, what is the best method of raising it ?

P. Like all other questions of government, that depends upon the character of the people.

T. The most intelligent knowledge comes from comparison; what is the best way with a primitive people ?

561. Opposite methods illustrated. *P.* In places like early Russia or Turkey, an approved way has been simply to tell each man his share, being sure to make it big enough, then to get two or three prominent delinquent taxpayers, jab a sharp pole upward through the body of each, and plant them in a row where every one would be sure to see them. Such an evidence of the promptness and thoroughness of the government inspires a confidence among the people that brings in the taxes with great success.

T. That seems a very simple way. Why wouldn't it be a good one in America ?

P. It really would be less painful in the long run

than some of the present ways, but the people fail to realize that fact, and would be apt to embarrass the collectors.

T. What is the national government's present way?

P. The settled way, up to the war with Spain, and the way that probably we will return to as soon as the war is paid for, was at just the opposite extreme from the Turkish. Instead of impressing the matter unpleasantly on the people's attention, it was to try to collect the taxes without people generally knowing anything about it—to make taxation

“Like the bat of Indian brakes
Whose pinions fan the wound it makes.”

T. Isn't there good authority for that plan?

P. Yes, the great Colbert said that the true way was so to tax as to pluck the most feathers with the least squealing.

T. What names are given to the system which attempts to tell each citizen clearly just what he is to pay, and to the system which tries to get it out of him without his knowing it?

562. Direct and indirect.

P. Direct and Indirect.

T. What are direct taxes?

P. Those which are paid in the first instance by the person getting the benefit of the thing taxed—such as those on real estate, accumulated property, income, inheritances and business transactions, including some of the stamp-taxes.

T. What are indirect taxes?

P. Those paid on property which the payer does not ordinarily expect to use, but to sell, and whose taxes he is expected to add in the price to the consumer. These also include many stamp-taxes.

T. Has the person on whom a direct tax is laid, any choice about paying it?

P. No: he must pay or be sold out.

T. Now how about indirect taxes in this regard?

P. There's less compulsion about them. The consumer of the articles taxed, who generally has to pay the

indirect taxes in the price of the articles, can do without the articles if he sees fit, and substitute something not taxed, unless everything he must have is taxed. But even then, he can do without taxed luxuries, if he sees fit.

T. Does every tax fall definitely into one of these categories and not into the other ?

P. No more definitely than things generally fall into any classes that human ingenuity tries to put them into. In fact, so little can a legislator foretell whether some taxes are going to prove direct or indirect, that some writers, especially on the continent of Europe, make different definitions, and some there and here even propose that the terms shall be abandoned.

T. Well, we haven't time to go into that; we may as well stick to the definition we have started on, and try to understand its weak points as well as its strong ones. To illustrate: a man lives in a large house, is the tax he pays on it direct or indirect ?

P. Direct, of course.

T. Suppose he takes boarders, of course he has to charge part of his tax to them, is it then direct or indirect ?

P. The part paid through him by the boarders is indirect.

T. He rents his whole house to somebody else. Of course he has to get interest, and taxes besides. Is the tax then direct or indirect ?

P. It seems to have become entirely indirect.

T. So it has, if his tenant really pays it, as in effect he probably does, tho there is a little doubt on that subject, which we will touch on later. Now a man imports a thousand cigars, expecting to charge to customers the duty imposed by the tariff; is the tax direct or indirect ?

P. Plainly indirect.

T. A traveler brings a thousand cigars which he expects to smoke and give to his friends; is the duty he pays direct or indirect ?

P. Direct, of course.

T. A man distils a barrel of whiskey and pays the excise tax, which he charges to his customer; is the tax direct or indirect?

P. Indirect.

T. He concludes not to sell the barrel, but puts it in his own cellar; was the tax direct or indirect?

P. Direct, of course.

T. A druggist puts an eighth-of-a-cent stamp on a bottle of medicine, is the tax direct or indirect?

P. Indirect, if he charges his customer, but as he can't well charge an eighth of a cent, the tax is probably direct.

T. He puts a two-cent stamp on a bank check. Direct or indirect?

P. Direct.

563. *Shifting of taxes.* *T.* Well, we have at least seen that sometimes a tax that seems direct can be shifted on to somebody else. Now how do we determine whether a tax is going to be paid by the person on whom it is first laid, or passed on to somebody else?

P. In the same way (and with perhaps about the same certainty, in the present state of our knowledge) that we foretell storms—by studying the subject. It's simply a question of motion and friction. M. Thiers likened the diffusion of taxation to the diffusion of light, but he forgot that light is not subject to friction. The motion of taxation is: for tho the first man will pass it on if he can, the later men will prevent him if they can. Sometimes one side will win, and sometimes the other. Sometimes the payment will be shared more or less along the line: for instance, the drug manufacturers didn't pay the stamps for the Spanish-war tax upon such patent medicines as were in the dealers' hands when the tax was imposed: the dealers put them on, and sometimes charged them to their customers and sometimes did not.

T. Generally speaking, when will the person on whom a tax is first laid, be apt to pay it rather than shift it?

P. It's really a question of whether it's going to cost

the producer or the middlemen more than the tax is worth, to make the consumer pay it. There is the natural tendency for the man who first pays it, to shove it on to the next man, and so on to the consumer; but generally the producer, or even the dealer, will pay the tax rather than advance price so as to curtail his market to a degree that will more than offset the tax. This is especially the case where, as in patent medicines, for instance, there is a usual retail price.

T. Isn't there a broader distinction still as to which indirect taxes will be shifted?

P. Well, those that consumers are most apt to pay, are of course, other things even, those most apt to be shifted.

T. And which are consumers most apt to pay?

P. Those on things which everybody *must* have, like matches; and those on things which the rich *will* have, like champagne.

T. When the consumer pays the tax, does it ever cost him anything besides?

P. Sometimes it operates like scamped work (174) or cheap money (405) or idle prisoners (515): when the retailer really collects the tax from the consumer, and passes it back, as it were, through the wholesaler to the manufacturer or importer (who has already paid to the government), all those people naturally try to get a profit for handling it, but competition often prevents them.

T. Why doesn't competition lead them to pay the tax itself, instead of throwing it upon the consumer?

P. Sometimes it does, but generally before the tax was imposed, competition has brought the less able producers' profits as low as they are apt to remain: so they contain no margin to pay a tax. Yet even then, the able producers with large margins of profit, may sometimes pay the tax, which will of course drive the less able producers, who can't pay it, out of business.

564(a). Need of free competition. *T.* Ought everybody to be free to compete by paying a tax if he wants to, rather than shift it to his customer?

P. Certainly, it's virtually part of the fact that all

should be able to compete in prices, both for their own sake and the public's.

T. What very important principle of taxation springs from this fact?

P. That all competitors should be taxed alike. For instance, as linen and cotton compete, it's unfair to tax linen unless you tax cotton, or cotton unless you tax linen; so it's unfair to tax serges unless you tax chev-iots, goatskins unless you tax calfskins; horses unless mules, railroads unless steamboats, rye unless oats, and so on through all competing things.

T. But is it possible to do this fairly?

P. No; each thing is competed with by too many others—more than a tax-law can follow: therefore taxation should be, as far as practicable, restricted to the things least subject to competition, like real estate and franchises.

T. Is it desirable that taxes should distribute themselves throughout the community?

P. That seems generally taken for granted, and it has also been declared that they *will* be so distributed, until they are finally paid by the consumer. But it has also been declared that they will all finally find their way back to the land, because everything has its origin there. In fact, pretty much every conceivable shifting has been declared and denied. The truth is that the subject is so enormously complicated that we don't really yet know much about it. There is a widespread feeling, however, that a given amount of taxes, like a bump or a blow, does less harm the more widely (and therefore thinly) a given amount of concussion can be spread; and, as we shall see, it is certain that almost any tax is spread more widely than at first appears.

T. Can you cite a good general proof of this?

565 (b). Prices
highest where taxes
are highest.

P. Other things even, in any given civilized nation the prices of commodities are generally highest where taxes are highest—higher in small cities than in the country, and in large cities than in small ones: these higher prices of commodities represent the cost of

the streets, lights, etc., which make the commodities easy of access (and therefore justify keeping a large variety) and, alas, they also represent the cost of the political corruption which gathers around municipal work.

T. What melancholy proof of this last point must Americans own up to?

P. New York is probably the most expensive city in the world, and our other cities, in proportion to their sizes, generally follow pretty close on its heels.

CHAPTER XXXII.

INDIRECT TAXES.

Teacher. Now to come to the details of the taxes levied by our benevolent national government in the manner of our amiable friend the vampire. What are the principal ones ?

Pupil. Taxes on articles manufactured here, which are called excise; and taxes on imported commodities, called duties, the whole list of duties being called the tariff.

T. Can you tell me what makes Scotch whiskey smell of smoke ?

P. Long ago the British government put a heavy excise tax on the manufacture of whiskey, and so it sold for a very high price. This led many people into making it secretly so as to get the high price without paying the excise. Many of these secret stills were in the mountains of Scotland, and Ireland too, and to prevent the smoke from betraying them to the excise officers, it had to be shut in and condensed on the premises, and some of it used to get into the whiskey.

T. But smoky whiskey is made by well-known distillers now. Why is that ?

P. Some people got to like it, and it was found that creosote, which is a name for condensed smoke, has some good medicinal qualities.

T. Did we ever have any secret mountain stills in our country ?

P. Yes: since the civil-war tax was put on whiskey, there have been some in the mountains of Virginia,

North Carolina and Tennessee. There are some even now, and even in New York city now.

T. Why should government think it worth while to collect taxes on such little stills as could be hid in the mountains ?

P. Because if they did not, such stills would be sure to increase in size and in numbers, and sell at low prices, so as to make it impossible for the lowland stills, which pay the taxes, to continue doing so.

T. But has it not been more troublesome to collect taxes from the little stills than from the big ones ?

P. Yes, not only to find the little stills, but to collect the taxes. The distillers have often murdered the excisemen.

T. Now in such cases, might it not be fairer to suppose that if the lawless people were not resisting the tax-gatherer, they would be trying to make money in some other way just as bad ?

P. Certainly. But nevertheless if taxes were arranged so that people could not make money by evading them, there would be one less temptation to evil-doing.

T. Are excises laid on the liquor traffic alone ?

P. By no means. They are generally laid on tobacco the world over. During our civil war they were laid on almost all kinds of production, and even during the Spanish war they were restored on many drugs, perfume and chewing-gum.

T. Is there any other objection to excises besides the promotion of lawlessness ?

P. They are burdensome on industry and commerce. For that reason they were taken off from nearly everything but liquors and tobacco as soon as possible after the civil war. Moreover, they are constantly tempting manufacturers to misrepresent to the tax-collector the value of the goods they handle, and evade the taxes, at the expense of those honest enough to pay them.

T. Would you conclude, then, from the objection to these taxes, that such taxes ought never to be levied ? Isn't there likely to be some good in methods that have been used so often ?

P. It is the amount of the tax that leads to the misrepresentation, smuggling and outlawry. When such taxes are not large enough to make it very profitable to evade them, they are harmless in those respects.

T. Is it possible to turn taxation into an instrument of good?

P. Yes, excises have their good side so far as they keep the liquor traffic within bounds, and tariffs so far as they prevent illegitimate foreign competition.

T. Have excises on the liquor traffic done more good in keeping the trade within bounds than they have done harm in leading to illicit distilling?

P. Probably a great deal more. The trouble in handling liquor traffic has only come from going to extremes and disregarding the facts of human nature. When the excise on manufacturing has been reasonable, it has been collected without trouble—that, in fact, is the test of its being reasonable; and on saloons it has also been possible to collect license taxes high enough to limit the number, and prevent temptation being offered to the weak at every turn.

T. Are there any taxes besides those on distilling that have seemed to lead to outlawry and murders?

P. Yes. Duties have made smugglers, many of whom were ready for any crime; and where, as is often the case, the boundaries between countries have been mountains, it has been easy for the smugglers to live there and hide, and they have grown very wild and lawless, and besides smuggling, have often run illicit stills.

T. Have duties done any good to offset this evil?

P. A great deal: by increasing the expense of foreign goods, they enable the domestic producer to compete with them more successfully.

T. That's all very well for the producer, but how about the consumer? Hasn't he a right to buy in the cheapest market?

P. The home market, when its manufactures are

567 (a). Taxes may limit dangerous pursuits.

569 (a). Encourage home production.

fairly established, is naturally the cheapest for all goods adapted to the climate and resources of a country.

T. Well then, what's the use of a tariff on goods that can be produced cheaper at home ?

P. In new countries, and sometimes in the new industries of old countries, it is often of the very greatest use. When, under either of these circumstances, an enterpriser is trying to establish an industry that already exists in another country, the foreigner, for the sake of keeping his monopoly, is very apt to sell even below what his goods cost him, just as we saw, when we were considering competition and trusts, that people often do (260). Then when he has prevented the success of the new industry, of course he can get fair prices, and is apt to get unfair ones.

T. But when the foreigner makes prices unfair, can't the home producer compete with him ?

P. The home producer won't want to, if he can keep the tariff high enough to shut out the foreign goods, or make the prices of them higher than his own.

T. Is there often any other consideration besides the establishment of young industries, making a high, tariff desirable ?

P. Yes, there is another case where a nation is sometimes put to it as a measure of self-defence—when another nation lays a high tariff on some important production of the first nation, and seriously disturbs existing industry, especially when such a step is taken, as it too often is, from mere spite and desire to injure.

T. Can you give a notable instance ?

P. Some years ago the Italians levied a very high duty on French wines, which had previously enjoyed in Italy a large market, that of course suffered seriously. In the hope of forcing the Italians to open the market again, the French levied a corresponding duty on Italian silk ; this led to a retaliation on the other side, until it all amounted to a regular "tariff war," with great suffering to both parties, and little good, if any, to either.

T. But couldn't the Italian wine-maker and the French silk-maker each get prices higher by just so much as the tariff limited foreign competition?

P. Yes, but each had to get the prices out of his own people: so the country could not be benefited; and moreover, the rise in prices limited the consumer's enjoyments. He is the one always neglected in artificial finance either in taxation or labor restriction (178-9).

T. But do not the advocates of high tariffs claim that the foreigner pays the tax?

P. So he does, so far as he can afford it—in cases where (first) adding the tax would drive the imported goods from the market, and (second) where the producer could not make up for the loss by gains in other markets; then he might bear a portion of the tax by reducing prices. But that the foreigner does not *generally* pay it, seems proved by the facts under everybody's eyes—that the prices of protected goods are high, and that the consumer actually does pay those prices. And it is plain that there is no "protection," unless it makes the imported goods high.

T. Well, the contrary statement has nevertheless deceived a good many people; and suppose that, after all, they are right?

P. Suppose they are: how does it help France, to make Italy pay a lot of her taxes, if Italy makes France pay an equal lot of hers?

T. But suppose one country can get ahead of the other?

P. Suppose it could! So it might if it went in with an army and took the money. Either way would simply be a case of might making right. There's no more justification for the thing in morals than there is in common sense.

T. But do you mean to say that it's never right or sensible for a nation to take a step which may lead to a tariff war?

P. No, no American can say that. When we were a British colony, and after, the efforts of British manufacturers to keep

571 (c). *The foreigner sometimes pays the tax.*

572 (d). *Early American experience.*

their monopolies here were merciless. Nobody here could begin making goods which the British competitors would not undersell at any loss. When the Revolution broke out, we were in the pitiful condition of being dependent on the enemy for nearly every manufactured article that we could not make in our own households—including, of course, the articles most needed to carry on the war.

T. What was done ?

P. The war, of course, operated as a barrier to English competition, and our people made heroic efforts to do without such manufactured goods as they could not make themselves. The makeshifts of that time must have had a great deal to do with the development of Yankee ingenuity.

T. What was done after the war ?

P. Hamilton, the first Secretary of the Treasury, realizing that the people must be slowly accustomed to taxation for national purposes, concealed his in a moderate tariff *for revenue* only. The English manufacturers, of course, tried to recover their monopolies. Our people were nearly all farmers, and naturally wanted their manufactured goods as cheap as possible; and cheap goods, for the moment, of course meant English goods. But distance put English goods at some disadvantage, and inevitably some manufactures began to develop here; it was not until 1816, however, that they became important enough to secure a *protective* tariff. Then a considerable one was put on which was increased in 1824. But by 1832 people (especially in the South, where there were no manufacturers) began to realize that our manufacturers had grown strong enough to take care of themselves, and were making undue profits at the expense of men who were not manufacturers, by charging for domestic goods as high prices as the tariff made necessary for imported ones. Consequently, it was arranged that duties should gradually decrease until 1842. But by that time the manufacturers had rallied enough support to the doctrine of protection, to

573 (e). From the
Revolution to the
civil war.

again increase the tariff, and it was kept moving up and down as one party or the other got control, tho it never got very high until money was needed to carry on the civil war.

T. Will you detail the effects of the civil war upon the tariff ?

574 (f). *Since the civil war.*

P. The tariff was made very high solely for the sake of revenue. But after the war was over, and people with sufficient intelligence began to think that they would again like cheap goods and more goods that could not well be produced here, they found that during the war, powerful manufacturing interests had grown up under the tariff, and now were ready to do anything to retain their profits. All idea of protecting only industries that needed it and could ultimately justify it, has been abandoned. There are fifteen hundred articles in the tariff, of which fourteen hundred yield no revenue at all, but only enable American manufacturers to keep their prices at the tariff rate. Of the remaining hundred articles, only about twenty-five yield revenue enough to be worth keeping on the list. The most frightful corruption ever known in our politics has been the result. Congress has been largely made up of the manufacturers themselves and their agents, and it is generally believed that the Senate itself was bought by the sugar trust in '94. Each industry has struggled for all the "protection" it could get, and has agreed to vote protection to other industries on condition of getting their votes in return. The high tariff made the revenues enormous, and then the manufacturers' party, rather than reduce the tariff, recklessly threw the revenues away, partly in wasteful river and harbor improvements in localities where commerce did not justify them, but mainly in giving pensions to hosts of people who had no reasonable claim, to get their help to keep the dominant party in power.

T. What was the industrial effect of the civil-war tariff?

575 (g). *Industrial effects.*

P. The war kept manufacturing within bounds, despite the war tariff; but when

peace and prosperity returned, and, even with them, increase of the tariff, there was a wild rush into the protected industries. The country became glutted with manufactured goods that could not be sold. The great panic of '73 was attributed to this over-production. Meanwhile, although some manufactured goods necessarily fell in price, many agricultural products—notably wheat, remained as high as ever. The protectionists, suffering from overdoses of their stimulant, cried, like the victim of alcohol, for more of it. The orgy reached its height in 1890, when the McKinley bill made an increase in the tariff so far beyond any rhyme or reason that the people at last got their eyes open and, in the election of '92, swept the tariff party from power.

T. But did that dispose of the matter?

576 (h). Both parties corrupted. *P.* By no means. The corruption then began to attack the Democratic party, which had not even the excuse of professed principle, for continuing the enormities. That party, as soon as in power, prepared, in the Wilson bill, a new tariff bringing the duties somewhere nearer reason; but three of the party's senators refused to vote for it unless it gave protection to the sugar trust; other interests refused that protection unless they themselves were granted protection; and so the new party in power, although it lowered some of the duties, failed to give the reform which it was elected to give.

T. Did the Republicans, on their restoration by the election of '96, restore the duties lowered by the Wilson bill?

P. Not entirely: their experience with the McKinley bill kept them cautious.

T. You have attributed the tariff abuses to the manufacturers. Is that fair?

577 (i). Tariffs tend to expand. *P.* No: I used the term generally, because they were the principal actors. But the fact is that a tariff on manufactures, no matter how wise at its inception, not only stays after it becomes harmful, but always spreads till it does become

harmful. Those not manufacturers rush in. Not only must the farmer's crops, and even his eggs, be "protected," but the pure bounty of Nature in forests and mines, must be, until, as already stated, artificial prices, which everybody using wood must pay, sweep off the forests and bring down the floods, while right across the Canadian border are endless forests that now answer no human need.

T. Does a protective tariff raise the wages of the laborer?

P. About as much as it does those of the hen when eggs are "protected." The laborer's employer, like the hen's owner, alone gets the benefit. This is proved first by the facts abundantly cited already (134): in the long run the laborer's wages depend on his Ability, not on juggling statutes. Moreover a protective tariff brings no new capital into the country, and the wages of labor of any given degree of Ability are determined mainly by the amount of capital that enterprisers can use for wages, and the number of men among whom the wages are divided.

T. But don't you contradict yourself? First you say wages are determined by ability, and later you say that they are determined by amount of capital and number of laborers to share it.

P. I said number of laborers of *any given degree of ability*. The higher the ability, the larger the share of capital ready to pay them, and the fewer men to share it.

T. But then doesn't protection bring capital out of other pursuits into the protected manufactures?

P. Yes, but it must also bring more laborers to divide it among, as the capital could not be used without labor. The tariff simply diverts money and labor from one pursuit to another. That indeed is one of the professed objects. The protectionist claims to improve on the distribution of labor indicated by blind and unaided Nature.

T. But suppose the protected manufactures attracted foreign labor?

P. How can that increase American wages? Attracting foreign labor is just what protectionists claim that they don't want to do, and of course insist that they don't do. They have even put on such prohibitions to keep it out, that the law has had to settle whether a foreign musician or even a foreign clergyman could land on our hospitable shores: we complain of inhospitable receptions by savages, and yet put Chinamen in jail for no crime but being among us.

T. What has been the course of wages in countries levying protective tariffs?

P. When countries have raised their tariffs, there has been no lasting advance of wages not reasonably attributable to other causes, and when countries have lowered their tariffs, there has been no lasting decline of wages not attributable to other causes. The recent spurt of protectionism in France, Germany and Italy has made no sudden rise in the wages of mechanics; and under virtual free trade, English mechanics have had their proportion, and probably more, of the advance in wages general during the last half-century.

579 (*k*). *Numbers concerned.* *T.* But assume for a moment that protection *does* benefit all engaged in the protected industries, and that it does not do so at the expense of the community; can you tell me how large a portion of the population of the United States was engaged in protected industry under the census of 1890?

P. Only about four per cent.* These are all of the people at work in the United States who are directly affected by the tariff at all, while the remaining ninety-six per cent. of the people are paying prices enhanced

* There were about 23,000,000 engaged in gainful occupations. Of these about 18,000,000 were included in agriculture, fisheries, mining, professional and personal service, trade and transportation. Of the remaining 5,000,000, about 1,000,000, were blacksmiths, butchers, builders, and heavy lumber workers, and of the remaining 3,500,000, less than one-third were in pursuits really open to foreign competition. True, there are tariff rates on most articles produced by the farmer, fisherman and miner, but as they generally cost more to produce elsewhere than here, there is virtually no foreign competition to "protect" him from.

by the tariff on the immense product turned out through machinery by the four per cent.

T. You say "the remaining ninety-six per cent." Does that tell the whole story?

P. No: the four per cent. themselves have to pay enhanced prices for all the protected goods except their own single line.

T. Are the wages of the four per cent. any higher, other things even, than the wages of the ninety-six per cent.?

P. No.

T. Then what becomes of the profits resulting from the manufacturer being able to get tariff prices?

P. They go partly into the pockets of the enterprisers, and are partly wasted in the depreciated prices of manufactured goods that come with the occasional gluts which high tariffs always cause.

T. What is a glut?

580 (*l.*) *Gluts.*

P. An excess of production beyond what people can consume, or beyond what they have other productions to exchange for (575).

T. What gluts an industry?

P. Nothing oftener than duties so high as to shut out foreign competition, and so tempt too many people into producing a certain thing, and thus drawing people away from making the things that would exchange for it.

T. But do people exchange things with each other? Don't they sell and buy for money?

P. As we saw when we discussed money, money is but a means of making the exchanges quicker and easier. Nobody sells anything for money because the money itself is of any use to him: he only wants it to pay for other things with. It is aptly called a "*medium of exchange*"—in the middle between the thing parted with and the thing acquired.

T. But to go back: mustn't people get glutted goods cheaper than goods of which there are not too many?

P. Yes, they get them cheaper after they have paid, at times when there were no gluts, more than the difference, in prices enhanced by taxes.

T. Why do you say *more* than the difference ?

P. Because besides what they get back in low-priced goods, they have to pay the enterpriser's profits when he makes any profit—and he makes profits large and often, or he would not be standing the loss from occasional gluts, or making his enormous payments to the campaign funds of the party which keeps up the protective system. The consumers have to pay these campaign expenses in the long run, and have to pay duties on such foreign goods as the protective system leaves room for them to buy, with the expenses of collecting those duties, and probably in some instances with profits on those duties, and threefold profits at that—to the importer, the jobber and the retailer. We have seen how these attempts to make money by jugglery succeed, in scamped work (174) and poor money (405) and idle prisoners (515) and indirect taxes generally (563).

581 (*m*). *Effect on trusts.*

T. What is the influence of a protective tariff on trusts ?

P. Very bad for the public interest. It deprives the public of the benefit of competition between the foreigner and the trust. So if the trust covers the whole home production of a "protected" article, people's only control over its prices will be in doing without its products.

T. Well, what seems to be the conclusion of all this in regard to raising taxation by tariff duties ?

582 (*n*). *Conclusions on protection.*

P. That in young countries it may be salutary; that as a measure of self-defence or even of industrial war, it may at times appear necessary, just as any other war sometimes may be; but that in a mature country at peace, it is most pernicious and corrupt.

T. Why does our national government prefer so bad a method ?

583 (*o*). *Causes of American system.*

P. Largely as a matter of course, from historic habit, as already indicated (573), but especially for two reasons: (I) because, as the national government has charge of all our relations with other

nations, and as, consistently with that, the Constitution prohibits the separate states from levying duties on imports or exports, that field of taxation is left specially open to the national government. And (II) the Constitution (Art. I., Sec. II.) provides that "all direct taxes shall be apportioned among the several states according to their respective numbers." Now the value of property is not at all "according to their respective numbers": there are rich states and poor states having about the same population. Now suppose two states equal in population, but one five times as rich as the other: then if government wanted to collect the same amount of direct tax from one as from the other, each man in the poor state would have to pay five per cent. of his property where each man in the rich state paid one per cent. of his. This makes it virtually impossible for the national government, under the Constitution, to impose some of the direct taxes so that people will submit to them or ought to submit to them; and therefore it is driven to the indirect.

T. Well, are the indirect really more just?

P. Only so far, of course, as they are put on things that a man can comfortably do without if he pleases.

T. But it could get in better taxes somehow. If the present system hurts us so much, why do we cling to it? People can't be hurt without knowing it, can they?

P. Certainly: even in battle, it often takes a long time for a man to know that he's hit, and we see evidences every day that a man's fortune can be pretty seriously crippled before he knows anything about it.

T. But who is to know if he doesn't? Who but those who pay the taxes can feel that our national system is wrong?

584 (*p*). *Expert opinion on American method.*

P. Oddly enough, the feeling is strongest among a body of men who pay a very modest share of the taxes, who are not rich, but whose opinion, nevertheless, is the only opinion worth attention—namely: substantially the whole body of trained students of the subject.

T. But do you mean to say that their opinion is less valuable than if they paid a heavier share of taxes?

P. On the contrary: taxes, especially indirect taxes, come proportionally hardest on people of moderate fortune, as we shall see more fully later, and they are quite apt to know best where the shoe pinches.

T. But hasn't the government already imposed some direct taxes?

P. Yes, such of the stamp-taxes as are direct, and the income-tax during the civil war, when people were ready to submit to almost anything to save the Union; but when the same thing was tried in 1894, the Supreme Court decided that it was a direct tax, not "apportioned among the several states according to their respective numbers."

T. Has it been found desirable to insure
585. Stamp-taxes, the payment of duties and excises by anything farther than the usual precautions in collecting the taxes?

P. Yes: to many things—especially packages of tobacco and cigars, kegs of beer, bottles of wine and spirits, and packages of patent medicines, all of which are favorite subjects of duty and excise, it has been found well to affix stamps showing that the tax has been paid. Unstamped goods offered for sale can then be seized.

T. Does anything pay both tariff and excise?

P. Yes, each box of imported cigars now bears a duty stamp and an excise stamp, and each bottle of imported wine or spirits, after paying duty, bears an excise stamp also.

T. As already said, some of the stamp-taxes are direct, and we are now discussing only indirect taxes, but there's not much to be said about stamp-taxes anyhow, and we may as well have done with them here. Have they been carried any farther than as mere vouchers for indirect taxes on merchandise, where the buyer of the goods often pays for the stamps?

P. Yes: government sells stamps which have to be put on legal instruments and commercial papers, such as

deeds, notes of hand, bank checks, telegrams, passenger-tickets, etc. This has been done in America for the civil-war tax and the Spanish-war tax, and in most European countries as a permanent thing—mainly for armies in expectancy of war.

T. Are those stamp-taxes direct or indirect?

586 (a). *Both direct and indirect.* *P.* That depends upon where the stamps are put. On checks and documents, usually they are direct, tho the telegraph and express companies have sometimes succeeded in shifting them to their customers.

T. Now in this sense is a stamp-tax (outside of being a voucher for excise) generally considered a good one?

P. Americans think that depends somewhat on who imposes it—as do the merits of all taxes, for that matter. It was perhaps the chief cause of their separating from Great Britain, but when they have imposed it themselves during war, they have paid it cheerfully.

T. But please answer my question. Is it a good sort of tax?

P. Yes, pretty good, in so far as it's pretty sure to be paid by most of those fairly subject to it, and very sure not to be paid by those who are not; but it yields comparatively little, is a daily bother to business men, and, of course, is somewhat in restraint of trade, and for that reason cannot well be pushed to a very large amount. So (carefully remembering that we are not now considering stamps on peculiar merchandise, and on stock transactions, both of which directly trouble but comparatively few people, and the latter of which contain a large element of gambling) a stamp-tax is generally a pestiferous little nuisance,* which those who pay enough of it to be entitled to be heard, would rather pay double, in a lump sum, for the sake of getting rid of.

* Mr. Dingley expected his new internal-revenue system, devised for the Spanish war, to yield about \$210,000,000 annually. Of this, he expected only \$15,000,000 to come from stamps on checks, telegrams and express receipts, which are bothering people at every turn.

T. Is it then to be regarded as one of the taxes worth very serious discussion?

P. No, except as petty nuisances are worth serious discussion. It is not to be compared in importance with the other taxes we have considered, and are to consider—especially for a rich and peaceful nation not obliged to exploit every possible source of revenue.

CHAPTER XXXIII.

INDIRECT TAXES—CONTINUED.

General Conclusions.

Teacher. Well, to leave that pleasant picture and return to our muttons: are indirect taxes, as a rule, economical to collect?

Pupil. As now administered in the United States, they are generally much more expensive than the direct.

588. Expensive to pay and to collect. *T.* Are they expensive to pay?
P. Yes: as intermediate profits sometimes follow indirect taxes (563, 580), they are apt to be more expensive to pay, as well as to collect, than taxes which can be paid direct.

T. Which are cheaper to collect, duties or excises?

P. As the United States taxes have been laid in recent years, collection of the excises costs about half as large a percentage of them as collection of the duties.

T. Which have yielded more?

P. With the exception of one or two years, the excises: so the excise seems to be more than twice as good a tax as the tariff.

T. Are indirect taxes gauged in proportion to people's ability to pay?

589. Hard on the poor. *P.* Quite the contrary: indirect taxes, as generally administered, fall unduly upon the poor, and do vastly more than all the injustices in distributing the product of labor, to make "the rich richer and the poor poorer."

T. Why?

P. Because to get enough out of them to make them worth while, a large portion of them must be placed on the necessities in universal use. These absorb all a poor man's income, while most of a rich man's income goes in luxuries, and it's no privation for him to pay taxes on them; and moreover, the portion of his income which he does not spend, indirect taxes cannot touch at all. This is an argument (as we shall see more clearly later (604)) for taxing all incomes that provide more than necessities.

T. But aren't taxes generally made very heavy on the rich man's luxuries?

P. Yes, and if you have indirect taxes at all, they ought to be. But he has his choice whether to indulge in those luxuries or not, while the poor man has no choice whether he will use taxed necessities or not.

T. But there is no excise on most things produced at home; can't he get along with those?

P. Not entirely; and if he could, there is a tariff on nearly all the corresponding foreign productions—for drugs and sugar and woolens, for instance—for the avowed purpose of enabling the American producer to charge that much more: so the poor man has to pay higher prices to the American manufacturer, in many cases where he does not pay the American government.

T. Indirect taxes, then, as you said, are hard on the poor compared with the rich. Now is there any other social division apt to result from the indirect system?

P. Yes, indirect taxes set off a portion of the community with interests against the community as a whole: for they give manufacturers powerful inducements to influence legislation for their own benefit at the expense of the rest of the community.*

* Speaking on this subject in the House of Lords in 1860, the Earl of Derby said that "by making the whole revenue of the United Kingdom depend upon direct taxation the pressure would be so odious that wars would be avoided, because no party would incur the odium of carrying them on." (Wells.)

T. What peculiar advantage have such interested parties in resisting reform?

P. The cry of "vested interests." When factories have grown up under a system of tariff and excise, even when changed circumstances make the system bad, the attempt to change it is naturally met by the cry that legislation ought to respect "vested interests."

T. Well, oughtn't it?

P. Yes, to a reasonable degree, especially in taxation. Some writers go so far as to say that a bad system is apt to be better than a good change. As changes upset industry so, it's important to make taxes so wisely that they will stand.

T. Do those directly interested in the tariff, go on this principle?

P. On the contrary, they are constantly changing it on speculation. Since 1862, the tariff has been changed some twenty-five times, all but once at the instance of some of the protectionists who had "little games" of their own to play.

T. How does indirect taxation affect the citizen's interest in good government?

P. Under it, the citizen cannot know what he is paying to the government, or whether it is more or less this year than last. He has no plain direct experience, in his own person, of economy or extravagance in government, and therefore has only a hearsay interest in working for honest and competent government. When, as in New York City, only one man in twenty-five pays any direct taxes, it's no wonder that the government is extravagant.*

591. Fail to stimulate interest in government.

* In England, the treasury gets but five-sevenths of what consumers pay. Some good authorities put it as low as three-fifths. In Prussia it costs four per cent. to collect direct taxes, and twelve per cent. for indirect. The Frenchman pays not only the tax, but one-fifth of the cost of his goods is wasted on collection expenses and intermediate profits. But to find the extreme of this waste, we must come to the United States. In 1846 the Secretary of the Treasury estimated that the government got \$27,000,000 from

592. Why they are popular. *T.* Why, in spite of all these objections to indirect taxes, are they popular with many people?

P. Because of the reason that we have most governmental institutions—the weaknesses of human nature.

T. Do you mean that most men prefer indirect taxes?

P. Most men don't know anything about them, but pay them without even knowing that they are paying taxes.

T. Where do men pay most of their taxes—at the government offices?

P. By no manner of means: they pay the indirect ones at places which they object less to going to—the grocer's and, too often, the bar-room. That's the reason they prefer indirect ones.

T. But suppose wise statesmen were to take pity on these poor ignorant creatures and give them the cheaper direct taxes, instead?

P. The poor ignorant creatures would reciprocate by turning the wise statesmen out of office. There is not a community in the world with sense enough to pay all of its taxes directly. Colbert (561) realized that where taxation is concerned, men are generally geese, and wise statesmen treat them as such.

T. Well, all this sounds as if the ways of collecting taxes, utterly irrespective of their amount, might make a great difference in the contentment and happiness of duties, while the people paid \$44,000,000 in increased prices of the articles taxed. In '67-8, a leading authority in the New York Constitutional Convention, expressed the opinion that the consumers paid the dealers and manufacturers at least half as much again as the amount of the tax. About 1883, Mr. Springer stated in Congress, as the result of a careful examination, that during the twenty years preceding, the people of the United States had paid in consequence of indirect taxes, but over and above the taxes themselves, more than eleven billions of dollars, of which the government had not received a dollar.

As one instance showing how much manufacturers have profited by systems of indirect taxation, in 1883 the match-manufacturers objected to the removal of a tax of one cent per package, and when the tax was removed in spite of them, the price fell a cent and a half a package. (Condensed from Wells.)

the people. Now is it difficult to collect them in the ways that will really hurt least in the long run ?

P. Yes, especially as taxing is a sort of surgical operation anyhow, and the way that really costs the patient least, may be the most painful for the moment.

T. How about taxes paid in instalments, or in lump sums ?

P. The indirect tax is of that kind, but, as I have already said, it is the most expensive, tho the one the vast majority of people most willingly pay. A few cents a pound when one buys tea and coffee, or a little increase in the cost of something that many men are ready to pay as high for as beer and whiskey, seems a small matter (especially as men generally don't stop to think about it at all) compared with what the same amount of taxes would seem if they and other indirect taxes were all presented in a lump sum, once a year, in, for instance, the shape of a government claim against a man's house.

T. But as it is, isn't there a tax-claim against every man's house, if he has one, or against his landlord's if he hasn't ?

P. Yes, and just so much the more reason why, if that claim were increased by diminishing his indirect taxes, he would want to turn out the government increasing it, and bring in one that would *appear* to tax him less.

T. You say "appear"; but isn't there something more substantial than mere appearance in favor of the indirect system, or a combination of the two ?

P. Yes: men with little forethought or little property (and the two are apt to mean nearly the same thing, and moreover, the vast majority of men are of that kind) would be sure to be found lacking the means to pay their taxes if all were presented in one big bill, while they manage to pay them a trifle at a time, in increased prices of their purchases.

T. What is said about indirect taxes encouraging saving ?

P. Some claim that so far as people realize them,

they do encourage saving, but that seems rather fine-spun. Probably nobody ever yet lessened his consumption on account of taxation—refused a thing he could afford, because part of its price represented a tax. If he could not afford it, the tax did not make him less apt to spend his money in something else, or more apt to put it in the bank.

593. Summary for
and against.

T. Well, now please sum up the case
for and against indirect taxes.

P. They are *apparently* so easy to pay that it is quite possible that no country is yet civilized enough to get along without them. But probably, as people grow wiser, they will ultimately disappear,* because they keep the payers blind to the extravagances in government, are corrupting to people and rulers, and tho the paying is comparatively easily done, they are really the most expensive of all taxes to collect, and the hardest of all taxes on the poor.

* From 1841 to 1896, the proportion of the Imperial Revenue of Great Britain coming from indirect taxes, fell from 73 to 52 per cent. This was accompanied by a great increase in the consumption of things used by the laboring classes. (Wells.)

CHAPTER XXXIV.

INQUISITORIAL DIRECT TAXES.

Income and Inheritance Taxes.

594. Direct taxes
divided into Inquisi-
torial and Obvious.

Teacher. We come next to the taxes generally called direct. Now is there any broad line of distinction that we may as well follow in treating them?

Pupil. Yes: some of the objects are seen of all men, while others cannot be got at without prying into private affairs.

T. If you've ever waited on an American dock (European custom-houses are not half so bad) to have your baggage examined, don't you think that we've considered some of the prying taxes already?

P. Yes, but, as we've remarked more than once, the human mind cannot often make any classification that doesn't overlap—probably because there are no hard-and-fast divisions in Nature.

T. Well, probably we can't do better than group the direct taxes into Inquisitorial and Obvious. Now to begin on the first group, and from a point we're already a little acquainted with: is the promotion of saving, the only good reason for taxing the things that enter into a man's consumption?

P. No: there are a good many reasons why the rate at which a man is willing to spend on himself and his family, should be the rate at which he should spend for the general good.

T. Well, is there any objection to that principle?

P. Yes: the more a man *must* spend on his family, the less he can afford to pay in taxes.

T. Has any way around that been found?

P. Yes: the direct tax on luxuries that a man can do without—horses, carriages, billiard-tables, pianos, watches, jewelry, etc., etc.

T. Any objection?

P. Yes: watches, jewelry and many such things are easily concealed, the taxes are not only inquisitorial, easily lied about and expensive to collect, but they yield too little to justify a capable people in fooling with them.

T. Well, you don't seem to approve of many of the taxes on a man's outgo that we have so far considered. Can you say anything better for a tax on his income? It would be at least direct enough, wouldn't it?

P. Yes: it could not very readily distribute itself—we would at least know whom we were taxing.

T. What injustices inherent in other taxes would the income-tax avoid?

P. A man would have to pay only on his successful operations, where he could afford to, and not on his failures. On the other hand, a dealer has to pay duties and excises whether he makes a profit on the goods or not.

T. How does the income-tax compare in this respect with paying on his accumulated property (the details of which we will consider later)?

P. He would have to pay only on property returning income—not on idle property.

T. Do all people consider that a merit?

P. No: the Henry George school thinks idle real estate the best possible object of taxation, as tending to force the landlord to improve.

T. Isn't that a good scheme?

P. It's a frightfully stupid one, at least when put in so extreme a way: for the money to improve the real estate would have to come out of some other mode of production where it is probably more needed, as proved

595. Income-tax.
596 (a). Falls only on successes and active property,

from the fact of its already being there. The scheme is simply one to rob Peter to pay Paul, like every other scheme to affect industries by taxation.

T. We'll consider the subject farther when we come to the taxation of real estate. Now doesn't it seem very desirable that each man should pay according to his ability to pay?

P. Certainly, all the doctors agree on 597 (b). *and is proportioned to ability.* that; and a man's actual income each year is probably the best test of his ability to pay.

T. We have at last reached the ideal tax, then?

P. Yes—the ideal one, but too ideal for this world.

T. Why?

P. The assessors have to depend on the 598 (c). *Like all inquisitorial taxes, a premium on lying.* taxpayer's statement of the amount of his income: they can never know the facts for themselves. So, as long as human nature remains as it is, there will never be an income-tax, any more than there will be a tariff or excise tax, which will not be a swindle of the taxpayer scrupulous enough to tell the whole truth, for the benefit of the taxpayer unscrupulous enough to conceal it. All these inquisitorial taxes—direct or indirect, that would pry into people's private affairs, put a premium on lying, and make the truth-teller pay the liar's taxes for him.

T. But don't rogues evade all sorts of taxes?

P. No: there are at least two that they can't evade, but they can evade some easier than others—income-tax, inheritance-tax and personal-property tax easiest of all.

T. But if dishonest men do not make a clean breast to the assessor regarding such matters, why should that prevent honest men from doing their duty?

P. Very conscientious men might question, and, as a well-known fact, do seriously question whether it is their duty to pay all the personal and income and inheritance taxes of the community, and let the rascals go scot-free.

T. What is the result in practice?

P. That men who scorn to evade any other obligation, unhesitatingly evade the inquisitorial taxes.

T. Do you recall a striking illustration of this ?

P. Nothing less than that, as Mr. Wells says, "a high court . . . has recently decided that 'perjury in connection with a man's tax-lists does not affect his general credibility under oath.' "

T. Is the premium on roguery bigger in an income-tax than on duties and excises ?

P. Certainly: just as the income represents the profits of a year, while a duty or an excise concerns but a single transaction.

T. Regarding which is lying easier ?

P. Income, unquestionably. Stamps and customs inspections have made evasion very difficult regarding tariffs and excises.

599 (d). *Violates rights of privacy.* *T.* Has the public a right to know a man's income ?

P. Certainly not.

T. Why not ?

P. I'm not called upon to prove why not. Anybody claiming the right must prove it.

T. But what's the objection ?

P. It would make it harder for the taxpayer to get through times of depression, and send the leeches after him all the thicker in times of prosperity.

T. But aren't people dealing with a man entitled to know his claim to credit ?

P. Yes, in a general way; but it doesn't follow that the rest of the world is entitled to know: tho if they were perfectly wise and good—wouldn't strike a man when's he's down, and overcharge him when he's booming, there might be no objection to their knowing. But as the world is far from perfectly wise and good, considerable privacy is necessary to safety and comfort.

T. But where the good of the state is concerned, must not the right of privacy give way ? Sometimes even the right to life has to.

P. Opinions differ as to whether an income-tax rather than some other taxes is for the good of the state. This very invasion of privacy is one of the reasons why it is not.

T. Does taxing incomes tend to double taxation ?

600 (e). *Generally doubles taxation.* *P.* Certainly: if a man pays taxes on real estate, stock in trade, bonds, stocks, etc., and then pays again on the income they bring him, he pays twice.

601 (f). *As illustrating progressive taxation.* *T.* But if people will tax incomes, should they be as hard on a little one as on a big one—tax it only the same percentage ?

P. The arguments both ways are very strong. The strongest perhaps is that a man with ten thousand dollars can easier spare a given percentage—say five per cent., having ninety-five hundred dollars left, than a man with ten hundred dollars can spare five per cent., having but nine hundred and fifty left.

T. You would tax the big incomes, then, so heavily as to leave all net incomes equal ?

P. No: for if a man is used to spending ten thousand a year, it would certainly bother him vastly more to cut his scale down nine thousand and fifty, than it would bother the thousand-dollar man to cut his scale down fifty.

T. Yes, but then arises the question whether it ought to, and that's too big a question for us to settle now. Tell me the next important argument in favor of a progressive tax.

P. It tends to make men stop work after they've got enough, and give the younger fellows a better chance.

T. Wouldn't some others than "the younger fellows" benefit by that ?

P. Yes, the whole community would if the older ones would use their leisure for the benefit of the community, in charity and politics, for it's not at all certain that they would.

T. Suppose the tendency to do so is increasing ?

P. That would be an increase in the argument for a progressive income-tax.

T. You mean it would be an argument for increasing the difficulty of men reaching a competence to retire on and devote themselves to the public good ?

P. That knocks the bottom out of the argument: if

the progressive tax would stimulate men to retire, it would to the same degree make it hard for them to get enough to retire on. We've got to drop that argument.

602 (g). *Discrimination of sources.* T. But suppose you don't levy the income-tax on wages or profits, but only on interest and rents ?

P. They do it that way in some countries, and it certainly removes the objections a stage farther off: the tax would no longer obstruct earning, but only saving.

T. Would you tax interest the same as rent ? (619)

P. Perhaps not, because, as population grows, and people crowd together, rents tend to increase; while as capital increases, the rate of interest tends to decrease.

T. Isn't there still more to be said in favor of exempting wages and profits, and taxing rent and interest ?

P. Yes: it would tend to set men to producing, who would otherwise be living in useless indolence upon what their fathers had made.

T. Wouldn't it also tend to equalize men's fortunes ?

603 (h). *As equalizing fortunes.* P. That's attainable, and probably desirable, only as you can equalize men. Certainly the way to attain it is not to clog the able man, but to help the weaker one.

T. Well, won't it help him, to largely decrease his percentage of taxation by slightly increasing the percentage on the larger income of able men ?

P. Yes, if that would do it: but as nearly as we can get at the figures, there are so many more people with small incomes than with big ones, that if you wanted to halve the taxes of people with less than one thousand dollars a year, instead of increasing richer people's taxes "a slight percentage," you'd have to more than double them—multiply them by about two and a half: and if you wanted to halve the taxes of people with less than four thousand dollars a year (the income that the law of 1894 tried to exempt), you would have to multiply the taxes of those with more, by about four.

T. What did Mr. Godkin figure would be the result of dividing all English incomes of over \$15,000 among the community at large ?

P. That each person would be richer by about four cents a day.

604 (i). As offsetting injustice in other taxes. *T.* Can't a progressive income-tax be made to offset the injustice in some other taxes—of the indirect taxes on necessities, for instance? (589)

P. Yes, but only very roughly: as most of the ordinary taxes—especially the duties and excises, come easier on large incomes than on small ones, a heavier tax on large incomes would tend to make things even.

T. Does that hold water?

P. Yes, if you're going to have a system of bad taxes to balance each other's badnesses.

T. Well, that may be the best we can do at this stage of evolution: and of course we've considered the progressive feature only on the assumption that you're going to have an income-tax, bad or not. Now if you have it, does the state give anything in return to justify making it progressive?

605 (j). Out of proportion to state's services. *P.* No: as a man's income increases, the state does no more for him in proportion than it does while his income is small, but rather less in proportion. The protection of the rich man's life, liberty and pursuit of happiness really calls for less from the state than does the protection of the poor man's. The rich man lives where he is less subject to attack from violence or disease, he is less subject to persecution, and is in a better position to take care of himself in every way than is the poor man: so the state has to do less for him merely as a man.

T. What justice, then, is there in the state taxing a man more in proportion, while its service to him grows less in proportion?

P. There is no justice in it: it is only one manifestation of the constant effort of those who can produce little, to get along at the expense of those who can produce much.*

* "The theory of progressive taxation is a vestige of the old

T. Well, shouldn't they ?

P. Yes, through philanthropy, not through spoliation.

T. We've already needed to touch that question and will need to consider it farther, later. Meanwhile, isn't the notion that taxation should be gauged by the service rendered, rather out of date ?

P. Some very good writers say it is, and they give one very good reason—that it's impossible to gauge what the state does for men: to civilized man the state is simply a condition of existence, like air or water—in a sense, all civilized men owe it everything, and there are no degrees in everything.

T. How does the argument strike you ?

P. "In a sense," as I said, it's good; but it can't upset the other side: questions of justice come in regarding even the distribution of air and water.

T. But do you mean to say that a man with more money than he can reasonably use, should do no more in proportion for the community, than a man who has only what he can reasonably use, or less ?

606 (*h*). *Taxation versus benevolence.* *P.* No: I don't mean to say anything of the kind, but I mean to say that justice is one thing and human charity another. I mean, too, that if the community tries to rob the rich for the benefit of the poor, under the cover of taxation, it simply attacks whatever tendency the rich may have to give voluntarily. When one thinks of the increasing millions given year by year to charity and education—more, probably, in America than in any other country, it is easier to see how such taxation might close pocket-books more than it would open them.

T. Can you give an illustrative case ?

P. Yes: when the income-tax of '94 was enacted, one of the journals gave an instance of a benevolent man who said: "Oh well, if they want to take it by force I'll simply deduct it from my charities."

prejudice that regarded wealth as . . . a sort of theft from the rest of the country." (Menier, quoted by Wells.)

T. But all taxes are, in that sense, “taken by force”: so why should a man propose to deduct that one from his charities, if he did not deduct others?

P. Because that one was not levied on an even basis to all men. No one with an income of less than \$4,000 was called upon to pay it.

T. But looking at the matter solely from the standpoint of the poorer people: if through taxation they help themselves to the accumulations of the great producers, can't they very well afford to do without their benefactions?

P. Doubly No: the less secure the enterpriser is of the results of his enterprise, the more apt he is to stop producing and stop employing labor—in other words: the more taxation attacks accumulations, the less those able to accumulate and to help other men to accumulate, will care to. We realized this principle even when we were talking of taxes laid on all alike, but of course it would be vastly more effective when taxes are laid with special force against what people can manage to do without: then the great producer would discharge his hands as soon as he had money enough.

T. What's the other consideration you alluded to, against the community helping itself to the accumulations of the rich rather than waiting for their voluntary benefactions?

P. To embitter the feeling of those able to help, against those who need help, is destructive of the best interests of all concerned. Where willingness to help is changed into reluctance to help, and embittered reluctance at that, it is safe to say that the ablest part of the community would find plenty of ways to avoid helping. Communities who have begun to alienate their wealthy people have found them traveling off to wiser communities, and taking their wealth with them. Ohio hasn't made much by driving the Standard Oil Company out of the state, or Massachusetts by driving out the Bell Telephone Company (609, 615, 617).

607 (1). *Taxing away business and benevolence.*

T. But those things were not done by taxation, were they ?

P. Some sort of fool-legislation: it may as well have been taxation as anything else.

T. But would the trouble stop there ?

P. By no means: bitterness on one side is sure to engender bitterness on the other; this reacts again, and so on interminably, until we reach the Roman social wars, and the French Revolution, with the destruction of everything the community values.

608 (m). *Characteristic of militarism.* *T.* But didn't you say that they have progressive income-taxes in some leading European states now ? Is there any sign of social war there ?

P. Yes: much more active signs of it than here. Those nations are full of socialism, and the only logical conclusion of socialism, if it is pushed to its logical conclusion, is social war.

T. As a matter of fact, what grade of civilization are income-taxes actually associated with to-day ?

P. A militant grade. If the support of Europe's immense standing armies were not forced upon her, the income-tax would probably not be needed or tolerated.

T. Well, does the income-tax produce much anyhow ?

609 (n). *Approved only as a necessity.* *P.* In England, where it works better than anywhere else but Germany, it supplies only one-fifth of the national revenue; and although, the world over, people without any incomes to tax are of course fiercely agitating for income-taxes, the weight of intelligent opinion, while acknowledging the ideal justice of an income-tax, is against an income-tax, as practically a great injustice. Its abolition was among the unfulfilled promises of several Gladstone administrations.*

* Gladstone said: "It does more than any other tax to demoralize and corrupt the people." Disraeli said: "The odious features of this tax cannot be modified." Thorold Rogers said: "Every chancellor of the exchequer has condemned it in principle and [from necessity] followed it in practice." It is not wonderful, therefore, that, fortified by these avowals, people who can evade the tax, do so (598).

T. How is it in other nations ?

P. In Italy the tax pays a little smaller proportion of the revenue than in England; but Italy is so poor that, just or unjust, the tax is felt to be a stern necessity. In Germany it has yielded very well, but through despotic methods of collection that Americans would never endure. In Switzerland the Canton de Vaud has adopted it under its progressive form, and is already driving away capital and industry. It doesn't amount to anything in the rest of Europe. In France and Russia it doesn't exist as a national tax.

T. What is the American experience ?

P. During the civil war, the income-tax, tho clearly unconstitutional (583-4), was religiously paid by most widows, orphans and patriots; and profanely laughed at by most other people. Perhaps half of what the law called for was paid. The tax of '94, there being no war on, was declared unconstitutional by the Supreme Court. There have been income-taxes in some of the states, of which only one or two survive as fruitless relics of an ignorant but confiding past.

610 (o). *Heaviest on those least able to bear it.*

T. Well, with your views of income-taxes, what do you think of inheritance-taxes ?

P. They can easily be avoided by gift before death, and even when they are not, they are not only open to all the objections against the other inquisitorial taxes—as putting premiums on lying, but they are at the expense of the widow and the orphan at the very time they lose the husband and father whom they have depended upon to meet their expenses.

T. Any other objection ?

P. Yes: the widows and orphans pay more than their share of such a tax, because they are not as able liars as other inheritors—in fact they are generally represented by executors or administrators who won't lie for them at all.

T. Then don't always put inheritance-taxes on the widow and orphan. How would they work if restricted

to heirs outside of the immediate family ? Sometimes there is no immediate family to inherit.

P. Except when collateral heirs have been dependent on the decedent, the collateral inheritance-tax is among the less objectionable of the inquisitorial taxes.

T. Why ?

P. Because a man is apt to feel more free with a sudden windfall than with slow and laborious gains—more apt to pay a tax on it without lying, and better able to afford it.

T. Is there any objection, then, to a collateral inheritance-tax ?

P. Yes: the objection to all petty nuisances. The tax never yielded much and never will—not enough to justify bothering the community and paying the collectors. Sometimes when a very rich man dies, the figures look large, but comparing the total with the total of taxation, they are insignificant.

612 (a). *Collateral not very objectionable.*

CHAPTER XXXV.

INQUISITORIAL DIRECT TAXES—CONTINUED.

Personal-Property Tax.

Teacher. Now leaving out the inheritance-tax, and assuming that a man produces his own income (which he does, of course, unless it is inherited or stolen, which is not, comparatively, often the case) and reflecting that the business processes on which stamp-taxes have been collected, are also generally productive, can you see one objection common to *all* the other taxes we have so far considered?

Pupil. Yes: they are taxes on production, and therefore tend to obstruct it, and to restrict the community's growth in wealth.

613. Personal-property taxes. *T.* Wouldn't it be wiser, then, instead of taxing production, to tax only property already accumulated?

P. That would discourage saving, but perhaps no more than the taxes we have already considered discourage producing, and it would not be all the time bothering people while they are trying to do their work, as do most of the taxes we have so far considered.

T. Then let us consider accumulated property under the usual two divisions of personal and real estate: now are all taxes on personal property incapable of diffusion?

614 (a). *Uncertain of diffusion.* *P.* Plainly not: of course *all* taxes *tend* to diffuse themselves and become indirect: any man, whether a landlord, a money-lender,

a manufacturer or a mere exchanger, will naturally charge his taxes to his customers if he can: so personal property permanently used in business (as well as that produced to be immediately exchanged, which we have already considered) can often pass on its taxes to the consumer. A man using machinery or keeping a livery stable, for instance, can generally take the taxes on his plant into account when he fixes his prices (563-5).

T. Won't competition prevent him charging in his taxes?

P. Some writers are very fond of reasoning that way, but it's hard to see why competition should prevent his charging in his taxes, any more than his insurance or even his clerk-hire.

T. So far, then, as the man paying such taxes can be like the man paying duties and excises—a sort of buffer to pass them on easily through the community, it seems eminently practicable to tax personal property. Is there any question of its ideal justice?

P. It's very apt to make the same property pay taxes twice. At first sight it seems plain that if a man enjoys a fortune in such personal property as stocks, bonds, mortgages, etc., he ought to contribute just as much to the government as a man with an equal fortune in real estate. But the fact is that he would contribute even if he were not directly taxed, and that if he is directly taxed, he contributes twice: for stocks, bonds and mortgages are only bits of paper showing that a man has an interest in property that already pays taxes wherever it may be located. The property of all corporations, including, of course, their real estate, is taxed.

T. Is not a man owning only personal property, apt to pay a real-estate tax anyhow?

P. Yes: if a man owning only personal property sleeps or eats under a roof and pays for the right, he really pays part of the taxes of the men who have real estate. Unless the man who appears to pay the taxes on any building, uses it himself or it stands vacant, he

615 (b). *Tends to double taxation.*

does not (as we shall see later) really pay the taxes, any more than a man who first pays a duty or an excise: the tax usually distributes itself, and is really indirect. As a rule, tenants of buildings really pay the taxes on them, so it is not true that unless they own real estate or pay personal taxes, they pay none at all. For this reason, among many others, the argument that fairness requires taxing personal property, doesn't amount to nearly so much as it seems.

T. Isn't there another danger of duplication?

P. A very great one. Everybody knows where real estate is, and there it is taxed. But there is an old principle that personal property follows the owner, which breeds a tendency to tax bonds, promissory notes and other evidences of credit at the residence of the creditor. There's a conflicting principle, however, that they should be taxed at the situation (technically the *situs*) of the property on which they are based. This often leads to their being taxed in both places.

T. Do you remember the case of the Western lady in Massachusetts, cited by Wells?

P. Yes, it covers more than one point we've been going over. She wanted to be in an educational town, and helped its tax-roll by building a fine house. Her personal property was held by a trustee in Indiana, and taxed to him there. But it appears to have consisted largely of bonds on property in another state where it was taxed again—that being the only place where it should have been taxed at all. When she had got comfortably settled in Massachusetts, she was requested to pay a third time there—a tax on her income. She said: "This will, if enforced, be a decree of my personal banishment from the state as effectual as that which the state formerly launched against Roger Williams and the Quakers" (607, 609, 617).

616 (c). *Effect on prosperity.*

T. Suppose there are two townships side by side, one of which taxes personal property and the other does not. Other things even, what will be the effect as between them?

P. Personal property—farm-tools, cattle, machinery,

merchandise—of course will prefer the township where they are not taxed: so one town will grow richer in personal property, and the other grow poorer (607, 609, 615).

T. But will that do the richer town any good as far as taxes are concerned, if personal property is not taxed?

P. Certainly it will, because the employment of all this personal property on the real estate, in developing farms, factories and commerce, will be an influence to make the real estate more valuable—will develop wealth that can pay more taxes. Moreover, as the chances to develop this wealth will attract more people from outside, their competition for land will raise its price. So, for twofold reasons, the taxes can be raised from the land, without taxing and driving away the personal property which has made the real estate valuable.

T. What, then, does the value of real estate seem to depend upon?

P. Bringing and using personal property upon it.

T. Is that true of a mine?

P. To a great extent—especially under modern conditions: you can't work one without tools, and under modern conditions you can't often work profitably without very good tools—chemical as well as mechanical: if you do, your competitor, who works with them, will get out more minerals for the same money, and undersell you.

T. But how can Wall Street property be valuable on this principle: there's no farming or mining or manufacturing and merchandising there?

P. There is certainly merchandising: for the railroads and many mines and industrial establishments are sold, partly or entirely, over and over again there every year; and if making a bankrupt affair into a paying one (or sometimes, alas! a paying one into a bankrupt one) or making a big effective concern out of several little ineffective ones—if making any of these things is manufacturing, there is certainly manufacturing done there. Take out of Wall Street the money, shares and bonds, dealt in and reorganized there, unless you brought in some other personal property to take their place, the

real estate would not be worth as much as a poor farm of the same size, and could not pay as much in taxes.

T. Can you recall the way Mr. Ensley * summed up the bearing of these facts on taxation ?

P. “Never tax anything that would be of value to your State, that could and would run away, or that could and would come to you.” In other words, never tax any movable property.

T. How about the practicability of collecting taxes on personal property ?

P. Except machinery, merchandise and 617 (d). Personal property hard to find or appraise. farm products, most of such property is very hard to find. Money and all sorts of securities are seldom seen by anybody but the owner, and all these things are changing hands so constantly that unless an impossible army of appraisers attends to them all at the same instant, many of them must be appraised at different times in different hands.

T. Even if public lists of personal property could be had and kept, like those of real estate, could the assessors appraise it well ?

P. Only stocks and bonds sold at the exchanges, and the simplest sort of tools and produce, like the farmer's. In regard to a great factory or a great merchant's stock, or a rich man's furniture and pictures, the assessor is no judge of values.

T. How does he usually try to get at it ?

P. Makes the taxpayer give a list of his property and its value.

T. What's the effect of this method on honest men and rogues ?

P. It's almost as bad a premium on lying as the income-tax: rogues—and not very great rogues at that—evade it, and honest men have to pay the rogues' share.

T. But is lying the only way of avoiding taxation of personal property ?

P. No: in the few cases where cities still try to tax

* “What Should be Taxed, and How it Should be Taxed,” quoted by Wells.

personal property, the rich city man makes his "legal residence" at his country home, where taxes are light, and even makes that country home in some other state, if his actual state taxes personalty more rigorously than some neighboring state. Corporations do likewise.

618 (e). Views of authorities, and operation of natural laws. *T.* If we were to cease the folly of trying to directly tax personal property, would we thus throw all the direct taxes upon real estate?

P. Certainly not: there would still remain the other direct inquisition-taxes, and the franchise-taxes, not to speak of the indirect taxes.

T. Yes, if we think indirect taxes better than direct taxes on personal property, incomes and inheritances; but that's very doubtful. As to franchises, we'll consider them later. How do real-estate owners regard abolishing taxes on personal property?

P. Those most given to considering such subjects—the great financiers and real-estate owners of the cities, almost all favor abolishing them. Their position is that not only is the personal tax a bad tax, but that if the fifth (roughly speaking) of the total taxation which is now collected from personal property were added to the four-fifths now collected from real estate, they would not as a rule have to pay any more than they pay now, but simply pay some of it out of one pocket instead of the other. The entire abolition of the personal tax is seriously proposed by virtually all of the best writers and commissions.

T. What has come to be the practice of most of the intelligent world regarding personal taxes?

P. They are fast disappearing from intelligent communities. They have been abandoned in Europe, except as involved in income-taxes. In New York, Cincinnati and San Francisco but one-fifth of the state and local taxes is now collected from personal property. In some cities less than one-fiftieth is. In the most advanced places no effort whatever is made to make lists of personal property, or to disprove any statement any taxpayer may make regarding it.

T. Where does the attempt to tax personal property directly, still survive most actively?

P. Outside of the cities, and in states that have few cities.

T. Does the farmer serve his own interest by resisting the removal of the tax?

P. Quite the reverse. He may or may not be more honest than the city dweller, but his neighbors know his affairs better, and a larger share of his personal property is in things like crops, animals and farm machinery, which he can't conceal or successfully underestimate. It is therefore more difficult for him to evade the tax than for his city neighbor to.

T. What do statistics show in consequence?

P. That in the states where the farmers
619 (f). *Showing of statistics,* have kept up active attempts to tax personal property, they generally pay most of the personal-property taxes themselves, while city people avoid them.

T. But if the farmers did not pay the personal taxes, wouldn't they have to pay more on their farms?

P. But not as much more as they now pay in personal taxes, because the present city personal-property tax, which the farms would then help to pay, is much smaller than the rural personal-property tax, which city real estate would then help to pay.*

* In Connecticut from 1855 to 1885, the personal property listed for taxation fell from one-tenth of the taxable property of the state to one-thirtieth. In '89 a law was passed providing that owners of securities who would register them should be taxed but one-fifth of one per cent. instead of the two and a half before levied. The first year brought out twenty-two millions that had not appeared before.

In 1866 Cincinnati paid about equally on realty and personalty: in '92 realty paid three and a half times as much as personalty.

In 1868 in Boston realty paid about half as much again as personalty: in '90 it paid over three times as much. Of six hundred million bonds of corporations outside the state known to be held in Boston in the nineties, only forty-five million were taxed, and nearly all of that belonged to estates of widows, orphans, etc., held in trust.

In Jersey City in '92, personalty paid one-thirteenth; in '70 Brooklyn reported over one-eleventh personalty; in '93 little over

T. Are the objections to the personal-property tax understood throughout the country generally?

one-thirtieth, and nearly two-thirds of that from corporations; in '93 but one and one-half per cent. was personalty.

In the states of New York, Wisconsin and Georgia, the attempt to enforce the laws taxing personalty is gradually being abandoned.

States with listing laws fare little if any better than states without. In 1871 California made very stringent laws taxing personal property. Some of the effects were very funny. According to the assessment reports, butter, wool and honey were no longer produced in counties full of cows, sheep and bees, nobody lent or borrowed any money, and in fact two-thirds of that previously in the state disappeared. In five years San Francisco paid on only one-third of the money and two-thirds of the other personal property that she had paid on before.

From 1885 to 1893, Ohio had a most stringent listing law, and yet the county containing Cincinnati paid less than one per cent of its taxes on personalty. In 1892 the people had \$190,000,000 in bank and listed but \$38,000,000. The counties containing the five chief cities had \$128,000,000 in bank and returned less than \$7,000,000, while the rural counties where the clamor for personal taxation is always loudest, had \$70,000,000 in bank and paid taxes on nearly half of it. This state of affairs led to the appointment of a very able commission who reported that "*the tax upon personal property makes farmers pay from four to seven dollars where people in large cities pay one,*" and they called the system "a school of perjury," adding: "It imposes unjust burdens . . . upon the farmer . . . all of whose property is taxed because it is tangible; upon the man who is scrupulously honest; and upon the guardian, executor and trustee, whose accounts are matters of public record."

A tax commission of New Hampshire in 1876, after speaking of the "corrupting and demoralizing influence" of attempting to tax personal property, "frankly admit that they are unable to frame any law to which a free people would submit, or should be asked to submit, that will bring this class of property under actual assessment more effectually than it now is."

An Illinois commission in 1886 asserted that the existing system "is debauching to the conscience and subversive of the public morals—a school for perjury, promoted by law."

A Connecticut commission in 1887 reported that "the results of an investigation of nearly three years into the workings of our tax system have brought us to the conclusion that all items of intangible property ought to be struck out of the list. As the law stands it may be a burden upon the conscience of many, but it is a burden

P. No: if they were, the tax would be abolished. In many places people are still working away at all sorts of hopeless devices to get personal taxes fairly and fully paid.

T. What is the favorite remedy for the difficulties of the tax, proposed by those who favor it?

P. One worthy of the other features of the tax—"publicity"—the pet remedy for malfeasance in office. This is an acknowledgment that the tax does its best to make scoundrels.

620 (g). "*Publicity*" a foolish means toward a foolish end.

T. What sort of publicity?

P. Publishing lists of personal assessments in the newspapers.

T. But is not that the same sort of invasion of privacy that is one of the reasons against the income-tax?

P. Certainly, and it has no effect: there are too many respectable delinquents (598): but people who advocate foolish things always have to carry them out by foolish methods.

621 (h). "*Homo-geneity*" fallacy.

T. As scorning foul blows, even against foul things, we may as well note here a on the property of the few, not because there are few who ought to pay, but because there are few who can be made to pay."

A West Virginia commission in 1884 asserted that "the payment of the tax on personalty" (in the state) "is almost as voluntary, and is considered pretty much in the same light as donations to the neighboring church or a Sunday-school."

In Massachusetts the most intelligent officials admit that their system is a comparative failure.

Wells (from whom the foregoing is condensed) calls the system one "which powerfully contributes to arrest and hinder natural development, to corrupt society, and is without a parallel in any country claiming to be civilized." And he says elsewhere: "There is not a single economist or financier of note . . . who upholds the system."

Seligman says: "In recent years in both England and France the necessity of raising increased revenue has drawn especial attention to the subject of local taxation; but in neither of these two countries has any prominent writer or speaker advocated the direct taxation of personal property, or even alluded to the subject except to scout the very idea of such a proposition."

fallacy regarding these inquisition-taxes which has been urged by high authority, and we may as well guard against weakening our case by its use. Do you recall it?

P. Yes: it has been urged, especially against the personal-property tax and the income-tax, that neither can be fairly laid because personal property or income is not "homogeneous"—a jaw-breaking way of saying that the things which make up either are not all produced in the same way—are not of the same kind, and consequently cannot fairly be taxed in the same way (602).

T. Illustrate, please.

P. Personal property may be, for instance, machinery, which constantly deteriorates, or interest-bearing securities which, despite occasional fluctuations, tend on the whole to advance: because as the rate of interest has been gradually decreasing, securities yielding a given rate have gradually become worth more. Income, too, may proceed from either of these sources—one much more reliable than the other, or from personal effort, which, it is contended, ought not to be taxed at all, as interest or dividends ought.

T. Well, where's the fallacy—aren't all those differences real?

P. Yes: the fallacy is in restricting the objection to taxes on those things: it holds against even the land-tax itself. Land is as various as almost anything else—it is used for a million purposes, and for none at all; it deteriorates—the best tobacco lands of Cuba are exhausted, and there's no known way of restoring their peculiar virtues; it appreciates—in many a place where, fifty years ago, it could not be given away, it is now worth millions an acre. *No* class of subjects for taxation can be homogeneous. Taxation has to be done "by and large"—it's one of the cases where "The law can't take note of trifles."

622 (i). *Effect on corporations.*

T. Well, tho the world (at least the thinking part of it) admits that the taxation of individual personalty is a failure and a wrong, yet

when the property belongs to a corporation, can't it be taxed correctly?

P. More correctly, perhaps, than the personal property of individuals can, although corporations can hide their personal property, and lie about it, as easily as individuals can. But as corporations are under direct government control, appraisers can examine their books and get a knowledge of their affairs more readily than they can those of private parties: so their property can be taxed more exactly.

T. But is that any reason for doing it—for putting them at a disadvantage as compared with individuals?

P. No, it isn't. It only affects their personal property anyhow: for their real estate can't be taxed more readily than anybody's else. So their case is simply one more illustration of the injustice always springing from taxing personal property.

T. Whence then arises the clamor for
623 (j). *Cause of prejudice.* taxing corporations?

P. Much of it comes from the less intelligent employees of corporations—of railroads and the like, who have had strikes and similar troubles with the corporations, and so comprehend all corporations in an unreasoning hate.

T. Has the rage for taxing corporations done any harm?

P. Decidedly: it has obstructed many an important enterprise, and it has even led the poor in some states to tax their own little savings in the savings-banks, because, forsooth, savings-banks are "corporations."

T. Is there no sound basis for the demand to tax corporations?

P. Yes: if the demand discriminates
624 (k). *As affecting franchise and non-franchise corporations.* between corporations controlling public franchises, and those engaged in ordinary business. Of course there's no more reason for heavily taxing an ordinary business conducted by a few men incorporated, than if the same men were partners.

T. No reason?

P. Well, it's true that they do get some special privi-

leges from the state (241-3) and impose some little special labors upon it; but these are generally paid for by special fees, and should hardly be included among taxes.

T. But as to the franchises of corporations, we have already seen good reason for taxing them. Yet aren't they personal property? Their value is represented in bonds and stocks which are constantly sold in public, and so isn't the value easy to get at?

P. But getting at the real value is not as simple as you make it appear: doctors disagree a good deal about it, tho it can undoubtedly be done in the few cases (few as compared with other objects of taxation) where it is worth while. But when it is, the franchise is not personal property, even as much as we saw (244) stocks and bonds are: it is always in some way or other inseparable from the land.

T. Well, we will consider franchises then, in connection with the land, in the next chapter.

CHAPTER XXXVI.

OBVIOUS DIRECT TAXES.

I. *The Realty-Taxes in General.*

Teacher. We seem now to have considered every important object of taxation except the most obvious of all—the one object that can't be hidden or carried out of jurisdiction, or successfully lied about. What is it?

Pupil. Real estate.

625. *Objections to them.* *T.* What merit of some of the other taxes must a tax on realty lack?

P. Real estate is more apt to lie unproductive than most other kinds of property. And moreover, a tax on it can't have the ease of the indirect taxes, or, perhaps, stimulate saving quite as they and the other taxes on consumption do.

T. Among primitive peoples, did the realty pay any tax?

626. *Their history.* *P.* Not directly as a tax: in fact, hardly anything like a tax had been evolved—or for that matter, anything like what we know as government. But in the tribal stage, there are generally contributions of produce from real estate for the support of the chief; tho as everything is supposed to be his, such contributions are more like rent than taxes. In the communal stage, too, a share of produce has generally been collected for government, but as the land belongs to the community, this contribution, too, is rather by way of rent than tax.

T. How about the feudal stage ?

P. The sovereign still owned the land: so anything that was paid on account of it, was strictly rent, tho he devoted some of the proceeds to his wars, and perhaps to the few other matters of public interest then existing.

T. Well, after the nobles began to get the fee of the land ?

P. Of course what an owner in fee simple (120) pays the government, he pays as taxes.

T. But has he always paid something, since fees simple became frequent ?

P. It's hard to generalize: among our English ancestors, the first germ of a fee simple, was the first germ of a tax in the modern sense—when Henry II. accepted scutage in lieu of military service (66).

T. How was it in France ?

P. Under the old régime, up to the Revolution, the nobles owned most of the land, but paid no taxes.

T. The actual taxation of land, then, as distinct from rent to the sovereign, is a comparatively modern institution ?

P. It certainly appears so.

T. What would that appear to indicate ?

627. Incidental to high civilization. *P.* That the tax on land is more civilized than earlier taxes.

T. Than even the ingenious indirect taxes ?

P. Especially so: for the indirect taxes were originally started in various countries by the representatives of the people, so as to get a tax that the nobles would have to pay: because the nobles had all the power and all the land, and would not let taxes be laid against the land. The land-tax is a later evolution, and really one of the marks of liberty and progress.

T. Now let's see if that idea is supported by other facts. You have already said that direct taxes tend to diffuse themselves and become indirect. Now on what sort of things are they least apt to diffuse themselves ?

628. Question of diffusion. *P.* On the sort, of course, where it is hardest for the man paying them in the

first instance, to pass them on to somebody else; or where there is least temptation to do so.

T. And where is the least temptation to try to pass them on?

P. Of course in things whose range of prices is so great that the customer can readily avoid the tax by putting up with cheaper things.

T. And what absolutely essential thing varies most in price?

P. Land. Some of it is worth nothing at all; some of it sells for hundreds of dollars a square foot.

T. Then if a tax is put on land which is farmed, what, other things even, would the man occupying it naturally do?

P. Well, the old economists—Adam Smith, Ricardo, Stuart Mill and others, said that he would naturally seek some land cheaper by at least the amount of the tax—he might even go to land worth substantially nothing.

T. Well, as a new economist, what do you say?

630. Fact versus theory. *P.* That a man naturally stays at home—that competition between pieces of land is not perfectly fluid, but on the contrary is subject to a good deal of the friction we've spoken of before (563); that often a man would be apt to be prevented from going to a piece cheaper (by the amount of the tax) than the one he occupies, because of the expense of moving, or by already having buildings to suit him, or by the attraction of old associations, and a thousand other possible considerations. The idea that a man will always move where he can save money by it, presupposes, as all merely economic laws do, that the competition between the two matters in question is purely one of price.

T. But is that really generally the case?

P. No: other considerations always come in and make more or less friction in the working of any economic law, just as they do in any physical law,—so much friction, in fact, that sometimes the law doesn't work in its expected direction at all—or that even the result may be

in the direction of the disturbing force, instead of the expected direction.

T. Can you cite a striking recent illustration of how these two opposing tendencies laid our leading authorities by the ears?

P. Yes: Professor Seligman, intent on the tendency to free competition, says, with the old economists: of course the tenant moves unless the landlord pays the tax: so the tax is not distributed, and any opinion that it is, is "so very superficial as scarcely to deserve a refutation." Mr. Wells, on the contrary, intent upon the friction that prevents free competition, says the tenant will pay the tax for the sake of staying, and in fact the consumer will generally pay the tax for what he wants. So Professor Seligman's expression made Mr. Wells feel sad. If a tyro might venture an opinion where doctors disagree, both are right and both are wrong, as usual in such disagreements.

T. As a matter of fact, does real estate generally rent for only the current interest on its selling price, or does it rent for that interest and taxes?

P. Some undoubtedly does rent for interest and taxes, other undoubtedly does not. There's such an immense variety of land, with such an immense variety of improvements, that it's very hard to tell.

T. Also, as a matter of fact, if a man hires a room in a hotel, must not he pay his share of the landlord's taxes?

P. Not necessarily: the landlord may make profit enough on other items to pay the taxes himself. It will depend upon what competition he has to stand, and can stand.

T. But wouldn't it be easy, anyhow, for a manufacturer, for instance, staying in his old place, after a new tax is levied, to charge the tax to his customers?

P. No: because some of his competitors would be apt to move, to save the amount of the tax and so be able to keep their prices down; and this will force those not moving to keep their prices down—in other words: to pay the tax

themselves and not try to shift it on to their customers.

T. What will be the effect on solvency?

P. Those with profitable monopolies, or those Able enough to produce low and make large profits, will simply have their profits diminished, but will be able to stand it. Those, whether they move or not, not Able enough to make profits in excess of the tax, will be driven out of business.

T. But what will be the effect of that on the price of goods or produce?

P. It will diminish the supply, and so of course raise prices to restore the equilibrium of demand and supply (255-6).

T. And how will that help determine who shall pay the tax?

P. The advance in price will of course save some producers who otherwise would be forced out of business, and will help pay the tax for all producers; and as the advanced price comes out of the community, that portion of the tax is distributed after all.

T. Might not people work a little harder, or invention and business faculty bestir themselves a little more, to create new productions and cheapen old ones, so as to pay the tax?

P. Yes: such results, especially in the way of labor-saving inventions, have sometimes followed new taxes.

T. And so far, then, as people save and invent and improve organizations for production, what would be the final effect of the tax on the landlord and tenant?

P. So far as the public bestirred themselves to pay the increased prices for the productions from the taxed realty, the tax would be shifted; and the tenant too, could deny himself and improve his methods for the sake of paying some of the tax. What was not paid by these means the landlord would have to pay.

T. Well, we'll take it as proved, then, that in the general run of cases, tho a realty-tax cannot be entirely distributed, it must be to some extent. But before we pass on, summarize by what agencies.

P. By the friction of moving, which will obstruct the

producers saving the tax by getting cheaper quarters, and so lead them to charge it to their customers as far as they can; by the restriction of product (and consequent raising of prices) which will arise from the tax driving out of business men not Able enough to save the tax by cheap production; and by the stimulated efforts and ingenuity of all concerned, consumers as well as producers, to increase their Ability, in order to meet the tax.

T. Now can realty evade its taxes, or, whether shifted or not, has *somebody* got to pay them ?

633. Realty-tax
sure to be paid, *P.* Real estate is, of all things, the most certain to pay its taxes. It cannot, like most personal property, be hidden when the assessor comes around; nor, if the owner does not pay, can realty, like most personal property, be sent out of reach of the collector who will want to sell it and collect the tax.

T. How about the assessor's ability to value the two kinds of property justly ?

634. and easy
to assess, *P.* Many kinds of personal property are of extremely uncertain value, which cannot be determined even by the owner himself. On the other hand, realty is known and observed by the whole community, and a list of it is easily and usually kept open to everybody's criticism: so, other things even, the valuation put on it cannot be very far from what people in general would consider fair.

T. How about the comparative expense of collecting taxes on realty and personalty ?

635. and cheapest to
collect. *P.* The realty tax would be much the cheapest of all taxes to collect. A large part of the expense of collecting other taxes, is in paying men to find the things taxed, and to decide what they are worth.

T. But suppose now, for a moment, that the realty-tax could entirely distribute itself, then couldn't real-estate owners make other people pay it all ?

636. All owners
must always pay
part of it, *P.* No: because even if each owner of realty could charge all its taxes to his tenants or customers, he would himself have

to pay the charges of other real-estate owners in everything he bought except his sea-food; and even in that, he'd have to pay his share of the taxes on his fish-monger's shop.

637. Summary for *T.* To sum it all up, then, how does a
and against the real- realty-tax compare with the other taxes
estate tax. we have so far been considering?

P. It does not involve double taxation, as taxes on stocks, bonds, mortgages and other obligations do; it does not tempt to concealment or evasion, as duties, excises, income-tax, inheritance-tax and personal-property tax—all the vampire and inquisition taxes—do; it does not put the principal burden on the poor, as the vampire-taxes do, or put it on the honest, as the inquisition-taxes do; the property to be taxed can be more fairly valued than most other kinds, and cannot be hidden or wasted like most other kinds; the tax is sure to be collected, despite any amount of bankruptcy and dishonesty; the tax does not, like duties, excises and income-tax, discourage production; but it does, like the personalty-tax, discourage saving.

T. Do you suppose that, as a matter of fact, it ever *did* discourage saving?

638. Real estate *P.* Undoubtedly, in some badly-gov-
under poor govern- erned countries where the taxation is
ment. ruthlessly oppressive, a man would at
least put his savings in property that he could hide from the tax-gatherer, rather than in the kind of property that is hardest to hide. Even if that did not discourage saving in such countries, as the savings are not put in real estate, the demand for real estate is so small that its value is low, and taxation is less fruitful in consequence.

T. But what has that to do with us in America?

P. At least this much—that the government of many American cities—notoriously New York—has at times been so bad that many wise men hesitated to buy real estate there.

T. Even the real-estate tax, then, has not the merits of the indirect taxes?

T. No: nor have the indirect taxes the merits of the real-estate tax. The merits of the indirect taxes are only the merits of being adapted to very short-sighted people, tho perhaps most people are short-sighted.

T. Can't you think of a way to combine at least some of the ease of payment of indirect taxes, with the certainty and reasonableness of real-estate taxes?

P. Certainly: make the latter group payable if the payer prefers, in small instalments. Something in that direction is done in some places already.

T. What striking testimonial does our history contain to the certainty and fairness of taking realty as the basis of taxation?

P. In the original Articles of Confederation of the States, it was provided that each state should contribute to the National treasury in proportion to the value of the land "granted to or surveyed for any person . . . and the buildings and improvements thereon."

T. But was the tax to be actually raised from the land?

P. That was as each state pleased. The Articles of Confederation only ordered it apportioned among the states according to the land and improvements.

T. Well, isn't that what taxing real estate would substantially amount to at almost any time and place?

P. Certainly: the amount of realty a man might own would simply be an index to what taxes he should pay—an index of his *ability* to pay taxes, which modern writers all say should be the basis of taxation. But he would not necessarily pay from the income of such realty, but from whatever income he might have. He might be occupying the realty himself, or it might be lying idle.

T. But even the provision for apportionment according to land values was not re-enacted in the Constitution. Isn't that fact an argument against it?

P. Not necessarily: for during the Revolutionary War, taxes were gathered largely from duties and excises: therefore, in the Constitution, such taxes seem to have been taken for granted as a matter of habit.

639. Opinion of
the Fathers.

640. Equalization. *T.* What difficulty already experienced in levying a state tax on the realty of the counties separately, would have to be overcome in levying a United States tax on the realty of the several states?

P. The very troublesome question of "equalization," that is, making each locality bear its just proportion of the general burden of the state. No such difficulty arises regarding local burdens: for the money is spent where it is raised. But when a whole state is taxed to pay for a state-house at the capital, state prison, asylums, legislature, executive, judiciary, etc., if one locality pays, say, one per cent. of its property, it is not fair that another locality should pay two per cent.

T. How does such a difficulty arise?

P. The appraisers are nearly everywhere local officers, and those of each locality try to appraise low, so that their locality will be sure not to pay more than its share of state and county burdens, and so that they won't alienate the voters. This is generally the reason why real estate is appraised at but a third or a half of its market value; perhaps too it explains much difference in "getting at" personal estate.

T. What remedies are in use?

P. Generally for each county a "board of equalization" is made up of officers from various sections; but this is cumbrous and not very effective. There are quite generally laws that everything shall be appraised at its full value, but they are not usually effective either.

T. Why not have state assessors for state purposes, county assessors for county purposes, and local assessors for local purposes?

P. It would be very cumbrous and expensive to do the work three times.

T. Are any other remedies proposed?

P. Yes: to have different objects taxed by the different governments. In New York there is quite a general sentiment for reserving the general property-tax (meaning real estate and personal property) especially for lo-

cal use; franchises, depending on their nature, for both local and state; the inquisitorial taxes except that on personal property—income, succession, etc., for the state, and it has lately been proposed to reserve taxation on mortgages for the state; and excise and duties for the nation. At present, the thing tends to work itself out in that way, but making the personal-property tax local, and reserving the other bad taxes for the state and nation, does not make any of them good taxes or promote broad patriotism.

T. Why did you say: “At present”?

P. Because many people think there is a farther tendency for all inquisition and vampire taxes to disappear (593). If they ever do, it will be a long time hence, and would involve amendments to the Constitutions of most of the states, and (for national taxes) of the United States (583): those constitutions require taxation of all “property”. But *if* they disappear, the equalization difficulty would settle itself: assessment for all the governments could be done by the national officials, who could be appointed by the central authority, instead of depending on votes, and so being subject to local bias.

T. Isn't there a simpler way than that?

P. Yes: one lately enacted in Connecticut—make each locality responsible for state taxes in proportion to the amount raised for local taxes. This not only removes the temptations to wrong assessments, but also promotes local economy.

T. You spoke of assessors not wanting to alienate the voters. What other abuse springs from that?

P. They generally assess the property of non-residents too high.

T. How is this guarded against in England?

P. A man can vote in all places where he owns property.

II. *Varieties of Realty-Taxes.*

T. So far, we have talked merely of taxing real estate. But there are several ways of doing it. What are the principal ones now considered, and while you

are about it, please give them distinct names, so that we shall have some definite words to talk with.

P. We might say there are four. First 641. Realty-tax, is the general present method of taxing
Single Tax, all the realty—land and improvements,
Separated Tax, without regard to whether other things are
Appropriation-tax. taxed or not. This we can properly call *realty-tax*. Then there is a second proposition, that there shall be only one sort of tax levied, and that that shall be on realty (including, if we please, the land devoted to the operation of franchises). This is the proper "*single tax*," and we had better reserve the name for it. Then, third, is the proposition that the land shall be taxed separately from the improvements; this and each of several others have been called *single tax*: so to distinguish, perhaps we had better call this the *separated tax*. Then the fourth proposition, which may be applied to any one of the preceding three, is to tax all the value of the realty away—virtually to appropriate all the land for public use. This also has been called *single tax*, but as that term has lost meaning by being applied to so many things, we may as well call this one *appropriation-tax*.

T. As we've considered the first—the realty tax in general, let us go on to consider the three proposed modifications of it. Was Henry George the first to advocate that it should be a single tax?

642. The Single tax. *P.* By no means. As early as the close
(a). *Locke's theory.* of the XVII. century, John Locke taught that all taxes ultimately were distributed and gravitated to the land, and might as well be put there at once, as by a troublesome and expensive indirection. His ideas were taken up by the physiocrats nearly a hundred years later, and have had many advocates since. Of any attempted tax on commodities, Locke said: "The merchant will not bear it, the laborer cannot, and therefore the landlord must."

T. What are the fallacies in this reasoning as regards the merchant?

P. The merchant often *will* bear it, at least in part,

as a matter of competition, and also when an even price is usual and important, and the tax is too small to justify going to a higher price (563).

T. As regards the laborer ?

P. By the laborer, Locke apparently meant the producer, as distinct from the exchanger (whom he called the merchant). Now the producer includes not only the laborer, but the enterpriser and the capitalist: these people certainly *can* bear the tax; and even the laborer (at least in our day, if not in Locke's) can certainly bear some of it.

T. How long did Locke's opinion remain undisputed ?

P. Sir Robert Walpole, about 1733, wanted to increase customs duties, and he took ground just the opposite of Locke's; among his arguments was that the duties were no harder on people in general than a land-tax, because consumers of all commodities have to pay the land-taxes. The reasoning was that, as everything people want comes from the ground, the landlord can make all who use anything pay his taxes.

T. Where is the fallacy ?

P. It was full of fallacies. In the first place, it is no more the entire truth that everything that people want comes from the ground, than it is that everything is made by Labor with a big L. Either statement ignores what value is added to raw material or to big-L-Labor by the labor (with a small l) of a Vanderbilt, or an Edison, or a Michelangelo.

T. But after you recognize the enormous increases of value effected by Ability (or labor with a small l, if you prefer), is Walpole right even then ?

P. No: people can decline to use some of the things at the enhanced price that the landowner's taxes would impose: so he'll have to pay at least that portion himself.

T. On this principle, if a man is rich and wants to live on Fifth Avenue and is ready to pay for it, is he apt to go anywhere else to save taxes ?

P. No.

T. On the other hand, if a man is poor and wants a farm ?

P. He may be forced to go down a grade for the sake of saving taxes.

T. What then seems the rule in regard to the distribution of real-estate taxes ?

P. Fancy property, for which people are ready to pay fancy prices, probably can shift its taxes much more readily among such people, than can other property among people who seek it largely with an eye to economy—except of course such people as have already touched bottom—and can't find any property poorer than they have.

T. Didn't we see something like this before ?

P. Yes: we saw (563) that a tax can be shifted most readily upon those who *will* have and those who *must* have. So the realty-tax, while desirable on the whole, is probably harder on average property, than on the best and the worst.

T. Is the worst property in cities generally owned by the poor ?

P. No: the rich generally own large quantities of it, and rent it to the poor at higher rates, in proportion to its value, than they can get for better property: that fact of course adds force to the theory that its taxes are shifted.

T. What would be the case regarding shifting in a country township ?

P. Probably the taxes on the farms and ordinary houses could not distribute themselves, while if it happened to be a favorable region for hotels and summer-villas, probably the taxes on them *could* distribute themselves, at least so far as to the tenants. In such a neighborhood, the majority of voters would probably oppose the single tax on real estate, and try to tax also the stocks, bonds and mortgages held by such of the villa residents as voted there. In short, the position would be just the reverse of the city. The single tax would *not* be desirable on the whole, and yet its ab-

sence would be hard on the holders of the superior property—even tho that is the very property that would have most of the tax to pay, if it were enacted.

T. That being so, how are you going to settle the question of the single tax justly?

645 (d), Local option in taxation. *P.* It has been proposed to let each local government—village, township or city, settle its own method of taxation—to have “local option” in taxation, instead of having one method settled by each legislature for the whole of each state.

T. Wouldn't it be better to have each legislature pass, for the entire state, uniform laws in accord with the ideas of the most intelligent people?

P. Taking the “ideas of the most intelligent people” is something that legislatures are nearly certain not to do; and the question is too new for the most intelligent people to be sure that any one scheme would work well in all places. Some great cities, and perhaps some great states, have, it is true, virtually been brought under the single tax by the pure operation of natural laws (618, 619), but it's too early, without farther experiment, to say what is best at this stage of evolution, for the rural regions generally.

646 (e), Effect of single tax suddenly imposed. *T.* What would be the effect on land-owners of *suddenly* stopping all other taxes and coming to a single tax on real estate?

P. As a realty-tax can only partially distribute itself, at first sight it seems as if all landlords would at once be made poorer by the undistributed portion of the tax.

T. Well, how does it look at second sight? So far as stocks represent shares in landed property, that sort of personal property would have to pay in either case, wouldn't it?

P. Certainly: because the profits from which the dividends are paid, would be lessened by the amount of the tax, but other forms of personal property would not have to pay: so realty-owners might not have to pay materially more than they now pay (618).

T. Well, now take a third sight: don't the realty-owners really pay pretty nearly all now?

P. Yes: as a rule (tho there are many exceptions), people who own the realty, own pretty much everything else. As nearly as we can tell, nine-tenths of the personal property taxed, is owned by those who own the land: so the change would mainly be paying to Peter what is now paid to Paul, less the expense of employing Paul to collect it.

T. Does Paul cost much?

P. An enormous deal—not only the whole custom-house system, and most of the tax-machinery—national, state and local, but also whatever the middleman's profits may be (563), and the waste there certainly is on all the indirect taxes.

T. But as a fact, if taxation were suddenly restricted to real estate, don't you suppose there would be a great rush to sell real estate, and wouldn't prices have to fall fearfully to restore the equation of supply and demand?

P. It hasn't worked that way where real estate has been *gradually* becoming the principal object of taxation, as it has in nearly all advanced communities. But if the shifting of taxes to real estate were hastened by a *sudden* enactment, there might be a panic, tho as real-estate owners are of the most intelligent and instructed classes, they probably would realize all we have been considering, and if some forced sales, others would be glad to pick up the bargains and sustain the market.

T. Hasn't the single tax ever been tried?

P. Yes, in Australia, they've even gone
647 (*f*). *Experience.* as far as the separated tax, and, as already said (618), the single tax has been tried approximately in New York and some other places.

T. And you intimated that the people, in many of our cities at least, like it. Do the Australians also?

P. Yes, they find it very satisfactory.

T. Does the fact that it seems to be liked so far as tried, prove that it would be liked everywhere?

P. Not necessarily: it may prove only that it has been tried where conditions are favorable to it, and that where it has not been tried, conditions are not favorable.

T. You spoke of its being popular in the cities. But how do the people *away* from the cities feel about it?

P. The farmer thinks first of his land, and not of his cattle, crops, machinery, tools and buildings; and he thinks, often wrongly, that if all taxes were collected from the land, his share would be increased.

T. But is there no way of reconciling these different opinions?

P. Only by local option.

T. Is it generally proposed in our day by the advocates of the single tax on real estate exclusively, that the tax should cover *all* the real estate?

P. Some favor what we have agreed 648. Separated tax on land exclusive of improvements. to call the "separated" tax, on the land alone, and not on improvements, because taxing improvements discourages people from making them—from building, draining, etc. It is for the interest of the whole community that all reasonable improvements should be made, and yet a man must risk getting from a quarter to a third more gross income out of a building, if it is taxed, than if it is not.

T. Wouldn't the separated tax be more than a mere suggestive stimulus to improvement?

P. Yes: in some cases it would almost force people to put up more buildings, so as to get revenue from the buildings to pay the increased taxes on the land.

T. But some time back (596) you said that was a stupid scheme, because the money would have to come from other investments proved better by the fact of the money being in them.

P. I said it was stupid to call unimproved real estate the "best possible" object of taxation—in other words, to burden it to a point where it could not pay its taxes with the help of such improvements as it could readily find capital for. It's one thing to encourage possible improvement, but another to demand more improvement than is possible, and punish the landlord for not making it.

T. Is unimproved land as apt to rent for interest and taxes, as improved?

649 (a). *Buildings
diffuse taxes more
readily than land.*

P. No: the taxes on the buildings are more apt than those on the land, to diffuse themselves, because a tenant can easily find cheaper land, but can't find a cheaper building nearly as easily: buildings for a given purpose do not vary in price nearly as much as land, and the building generally costs much more than the land.

T. Then who pays the taxes on buildings used in production?

P. Roughly speaking, the consumer of the goods produced: because manufacturers cannot compete with each other very much in expense of buildings, and therefore (roughly speaking always) must charge new building taxes to their customers, or get along with less profit, or (if they can't do that) relinquish business.

T. Now it certainly does look as if a large portion of real-estate taxes must be diffused to tenants and their customers. But suppose the buildings were for personal occupancy only, and not for rent, how would relieving them from taxation affect the tendency to build them?

650 (b). *Neverthe-
less separated tax
encourages im-
provement.*

P. There would be still more encouragement to build, or rather less discouragement, than now. Personal occupancy is, in fact, the strongest case in favor of building: because if the building were taxed and used unproductively—as a home, for instance, by the owner—he could not distribute the tax: therefore relieving him of the tax would be a special encouragement to build a home—a very desirable thing for hosts of reasons.

T. But where would the capital for increased house-building come from?

P. Some could well be diverted from less desirable investments; and so far as it might be borrowed, there is nothing that encourages saving among people in general, like the desire to pay such a debt and own one's home free of it.

T. Haven't you just given another argument for the separated tax?

P. Yes: the land is made already: so the separated

tax cannot discourage making it; but improvements in a sense really do make it—that is, they add to the value of the land itself as distinct from the improvements—sometimes almost create the value. So to exempt them from taxation would help to add value to the land.

T. But if the tax were separated from buildings, could those who own land alone without improvements, stand adding it to the land?

P. This is a different question from that of taking taxes off personalty and putting them on realty, and opens another good argument for local option in taxation. In communities where land can be had for the asking, such taxes would have to be paid disproportionately by the poor: for in such communities much of the wealth is in buildings, and to exempt them might throw an undue proportion upon the land, tho there would be some compensations, as already shown.

T. Now if instead of separating taxes from that part of the realty which comprises buildings and improvements, suppose they were taken off personalty alone?

P. Then the owners of land and buildings both would probably be able to pay them all.

T. But if land-taxes were separated from buildings and improvements in an old and rich community?

P. There the land, independent of the rest of the realty, has value, and its owners would probably be well able to pay all the taxes, even if they were not diffused at all.

551. Appropriation-tax. *T.* Now we come to the appropriation-tax. What is the first impression of its morality?

P. So far as the tax cannot be diffused, it must rob all present holders of their land. We discussed that when we discussed property rights (80-90).

T. Considering that question settled, then, suppose such a tax produced more money than government needed?

P. That's a bad thing for a tax to do: it encourages wasteful legislation.

T. But *if* tax of the entire rental value *does* produce an excess, what is it proposed to do with the rest?

P. Devote it to public works and give it to the poor.

T. Why not devote it to public works?

P. When we discussed government's promotion of convenience we seemed to see good reason to believe that it would be mainly wasted.

T. What is the objection to giving it to the poor?

P. Simply that, as history proves, it would increase the number of the poor (49). But aside from that, while the state has a right to make money for its general purposes—which benefit those from whom it takes the money, as well as the rest of the community—to take money from one man to give it to another who can support himself if he must, is robbery. Moreover, receiving money that is not earned, makes people slow to earn any.

T. But suppose people are sick or deformed or idiotic?

P. The state takes care of the incapable already. To take care of the capable would tend to make them incapable.

T. But how about taxing what is called the unearned increment of land?

P. We considered that too when we were discussing the general question of rights of private property in land (88, 89).

III. *Rental-Value Tax.*

T. You spoke some time back (639) of the Articles of Confederation making real estate, irrespective of its own immediate product, a guide or index to the amount of taxes that should be paid. Can you name another connection in which it has so served?

P. Yes: it has served as a guide in taxing consumption, through a tax on the rental value of the taxpayer's dwelling—to be paid by the occupant whether he owns it or rents it: because a man's dwelling is, despite many exceptions, a very fair guide to his rate of expenditure, as well as to his taxable ability. Such a tax on what a man consumes, encourages saving, as already said. Moreover, his rental valuation can be fairly fixed, and

cannot be concealed or effectively lied about: therefore the tax offers no premium on dishonesty, as do all the other taxes on consumption that we have considered.

T. Suppose a man paid the usual realty-tax on a house and lot, and rented it for a residence to another man who paid the rental-value tax we have been talking about. Wouldn't the government collect twice on that property?

652. Not a real-estate tax.

P. No: the tenant's rental-value tax is not put on the property, as the property cannot be sold to collect it. The rental-value tax is really a personal tax, the amount of which is determined by the payer's rental, and is really intended to tax his general expenditure.

T. But suppose the owner himself lives on the property, then can't the property be sold to pay his rental-value tax?

P. Yes, but only as any other property—even personal property, could be sold. There is no reason why the particular piece he lives on, rather than any other piece he may own, should be sold to pay his rental-value tax

653. Not double taxation.

or any other personal tax: therefore the rental-value tax is not a duplicate tax on the dwelling, any more than any two kinds of taxes are double taxes on any property a man has: all his property is subject to sale for all his taxes.

T. Suppose he's a rich bachelor living in a hall bedroom, hadn't you better try to tax him in something more than rental value of his dwelling?

P. You can get at his real estate, of course, but beyond that, it's clear that attempting to get at exceptional and abnormal cases does not pay for the trouble. A rich man living meanly would be almost sure to conceal all of his wealth that he could, and not unlikely to lie about it.

T. But suppose a man lives in two houses at different seasons, as so many people do now, or even three or four: you'd have his rental-value tax gauged by the one where he votes, I suppose?

P. Perhaps you couldn't do any better, tho he'd be apt to vote from the cheapest.

T. But shouldn't he pay upon all? A man ought to be willing to pay for his luxuries.

654. Should be on one residence only. *P.* No: a family doesn't use materially more in the way of clothes, food and drink, jewelry, or hosts of other things, for having three or four houses, than for having one; and not only are country houses good things for keeping great producers up to the best working condition, but it is a good thing for country regions that people who make money in the cities, should spend some of it in the country. People owning country houses should pay for the luxury, but not pay unduly, so as to discourage a practice so much for the general good.

T. But wouldn't this rental-value tax be shifted? Wouldn't a man looking for a house, say to a landlord: "If I live in this house, I must pay such and such a rental tax. I won't take it unless you deduct that"?

655. Shifting. *P.* Then the landlord might say: "I must wait for another customer." In fact, it would be a case of demand and supply; if houses were plenty and tenants scarce, it would go one way; if tenants were plenty and houses scarce, it would go the other way. The tenant has to pay the tax, and the question of his getting a house high or low is an outside question, just as it is outside of whatever gas-bill or coal-bill may be involved in running the same house.

T. Are the authorities agreed on this?

P. Yes; there's been a good deal of fog over it, but it's pretty well cleared up now.

T. Has the rental-value tax been found a good one in practice?

P. Yes, wherever tried (probably longest and widest in England) it has done very well.

IV. *Franchise-Tax.*

T. Now we have left to the last one class of objects of taxation which we commended many pages back: can you recall what?

P. Franchises, we saw before (278-9), are peculiarly just objects of taxation, because they are usually, in their very nature, really public property; and in getting

all they yield beyond a reasonable profit to their promoters, the public is usually but getting its own.

T. Hasn't our general study of taxation shown us still more reasons why franchises are good objects of taxation?

P. Yes: they cannot be hidden or lied about as successfully as most personal property, or as incomes and inheritances.

T. Why can't they be lied about as successfully as almost anything but real estate?

P. Because there are so few of them that it would cost government very little thoroughly to investigate their accounts.

T. But can't the managers of franchises spend a great deal in corrupting public officers?

P. Probably no amount of taxation could make them spend more in that way than they do now.

T. What is the verdict of experience regarding taxing them?

P. It is done in most countries where universal suffrage does not provide legislatures that the corporations can buy; and it is found to be in all respects a good tax.

T. But isn't a franchise-tax a real-estate tax after all?

556. Virtually a real-estate tax. *P.* Why yes, if you take into consideration the special value of the real estate for the purpose of the franchise. But of course it wouldn't do to tax a railroad's long line as if it were to be used for farming, or the long strip occupied by a gas-pipe as if it were to be used to build a house on: each gets its value from the size, shape and location that fit it for its purpose.

T. Isn't that true of any other piece of real estate?

P. Yes: it wouldn't do to tax a Wall Street corner according to its value for residence purposes, or a Fifth Avenue lot according to its value for stockbrokers' offices, or either for its value for farming; any more than it would do to tax a farm for its value for building jewelry-stores.

T. And doesn't the chief value of a franchise consist in its ownership of its peculiar real estate?

P. Certainly: Mr. Shearman points out that as soon as a street railroad gets its franchise, it generally bonds it for many times what its rails and rolling-stock cost. So it is with gas-lines and water-lines and franchises generally.

CHAPTER XXXVII.

DOUBLE TAXATION.

657. Of mortgages. *Teacher.* Suppose a real-estate owner gives a mortgage. Should government tax the mortgage in the hands of the man who holds it?

Pupil. Not if it continues to tax the land its full amount: the mortgage created no new value, so if the government taxed it and taxed the land as much as before, it would be taxing on more value than before, without there being any new value to pay the tax; in other words, it would be taxing some of the old value twice, which, in several states, is unconstitutional.

T. In any event, should it tax the land as much as before? Is it worth to its owner as much as before?

P. At first glance it appears not, but it really is unless, and until, it is foreclosed: he still retains the use and income of it, and therefore is in as good condition to pay the tax as he was before mortgaging.

T. But is he? Now he has to pay the interest on his mortgage too.

P. Yes, but the mortgage has brought him the money to earn that interest with, and, he thinks, a profit besides, or he would not have made the mortgage.

T. Should he pay taxes on the money too?

P. Certainly, if the money is taxed: he alone has it in possession and use to earn the taxes with. He has in possession and use all the real estate and all the money, and of course should pay all the taxes.

T. But you seem to make out that the mortgagor has everything concerned. Hasn't the mortgagee anything?

P. Nothing but a claim. He can't earn anything to pay taxes with that. He has parted with his money, and it's the business of the man who has that, to make it earn its taxes, as well as its interest.

T. But here is the mortgagee in receipt of an income. Shouldn't he pay taxes on it?

P. That depends upon whether the source of the income has already paid its taxes (600). We have just seen that it ought to, as everything that pays taxes ought to, through the party that makes it earn them—"at the source."

T. But suppose the mortgagee is taxed, who should pay the tax?

P. It's perfectly plain that nobody should. But where somebody is made to, the question of who, is generally made as broad as it's long, because in states where mortgagees are taxed, the mortgagee generally has to pay the mortgagee a rate high enough to cover ordinary interest plus the tax. Mortgagors have to pay six per cent. in Vermont, where mortgages are taxed, while they have to pay but four or five in New York, where the law taxing mortgages is a dead letter.

T. But is it "as broad as it's long"? In Vermont and other states where mortgages are taxed, doesn't the mortgagor generally have to pay not only his high interest, but also on the full valuation of the real estate, just as before the mortgage, and also on the money in his hands?

P. Yes, generally, tho the number of the states where that occurs is diminishing: for people are becoming alive to the injustice of it. More and more of the states which tax mortgages, are deducting them from the valuation of real estate.

T. But after all, isn't a mortgage an interest in real estate, and fairly taxable as real estate?

P. No, tho they have logically and historically enough features in common to deceive a good many people. But as long as the mortgagor is in possession, the mortgage is only a

658 (a). *Mortgagor generally pays tax indirectly.*

659 (c). *Mortgage not properly Real Estate.*

right to acquire an interest in the real estate if the loan is not paid.

660 (c). *In different states.* *T.* Now suppose a man living in a state where personal property is taxed, owns a mortgage on a piece of property in another state—it may be on a piece of private property, or it may be the bond of a corporation; suppose the mortgage is taxed in the state where the property is, and suppose that the owner of it, living in a different state, is also taxed on it as personal property. Is there any remedy?

P. No: what is paid in one state can't help another state raise the revenue contemplated by its own laws. As long as a state looks for revenue from all personal property owned by its residents, no matter where situated, victims of such laws are apt to move to more modern states. It's perhaps as much to save money as to spend it, that so many millionaires from all over the country move to the city of New York, where there is really little taxation of personal property.

T. Suppose, then, a man owns mortgages in California, and likes to enjoy his wealth in New York, should he pay no taxes there for the privilege?

P. Yes, and he can't avoid it. Taxes on most things he buys, and on the stores they come from, will inevitably be shifted to him, as is proved by the high prices of everything in New York. Of course he could also be made to pay rental-value tax, if New York were yet wise enough to use that tax.

T. Didn't we see something like this when we were discussing indirect taxes on personalty?

P. Yes, we saw there, too, (563,) that a tax can be shifted most readily upon those who will have and those who must have.

T. Banks and many other corporations usually pay the taxes on their stock before declaring dividends. Now suppose a man in a state where personal property is taxed, owns stock of a bank in another state, is he apt to have to pay on it twice?

P. Certainly. The bank pays once, and he pays again.

T. Well, it's plain how a state can collect taxes on stocks and bonds from resident corporations, but how could you collect on a mortgage when the mortgagee lived in another state?

P. As already explained, it is unscientific as well as unjust, to collect on it at all, but if you make the blunder, you can do it just as everybody collects on the fee simple (120) of the same land when the owner lives in another state.

T. But if you were to collect by selling the land, you would compel the mortgagor to pay the taxes or lose his equity of redemption (114). How would you remedy that?

P. Follow the method of Massachusetts, California and New Zealand—let him pay any taxes outstanding when his mortgage interest is due, and deduct them from the interest.

T. But as said above, wouldn't he have to pay a rate of interest high enough to cover those taxes?

P. Generally; but at worst, if the system were made consistent all around, by taxing the mortgage value but once, he would not have to pay, as he sometimes does now, on the mortgage, on the money in his hands, and on the full fee of his farm, but only on the equity of redemption.

T. Please state now definitely our conclusion as to who shall be taxed, if the holder of land has a debt which can be definitely collected from that land.

P. He should pay the tax as long as he has the use of the land. If the creditor is taxed on the claim, the debtor will generally have to pay that tax, in which case he should be exempted from paying on the amount which is the subject of the claim, and the simplest way to do that, is to have him pay only on his equity of redemption.

T. Wouldn't it be more logical to offset the mortgage debt against his personal property—against the mortgage money which he received?

P. He may not have any personal property: he may have borrowed the mortgage money to pay a debt, or

661 (d). Letting
mortgagor pay
mortgagee's tax.

may have invested it in more real estate, or may have made ducks and drakes with it.

T. Very well. Now suppose that all of A's property is a piece of real estate, and that B holds A's note, but not a mortgage. Can't that note be collected by a forced sale of the real estate, just as a mortgage could?

P. Yes, but it's not so sure an interest in the real estate, because if it were a first mortgage, it would be as good as an actual ownership, against all other possible creditors, and probably worth its face; but if it's a mere note, fifty other creditors might have just as much interest in the real estate, and not one of the whole fifty-one be able to get five per cent. on his claim.

T. But as affecting the ability of the landowner to pay the tax (and I suppose that is what we were discussing when we agreed to exempt the amount of his mortgage), why should we exempt him if his liability is on a mortgage, and not exempt him if his liability is on a mere note?

P. Because we've "got to draw the line somewhere." Let's draw it at what is so definitely his that he can sell it. If his land is mortgaged, he can sell only the equity. If it is not mortgaged, he can sell the whole of it, tho he may owe fifty times what it will bring.

T. Very well, that may not be a bad distinction, but do all other financiers agree with you?

P. No, there's no subject in taxation about which there has been more quarreling and more diverse practice. Some states, in making up tax-schedules, permit the deduction of all a man's debts from all his property, some permit the deduction of all his debts from only his personal property, collecting rigidly on the full value of his real estate, whether mortgaged or not; Massachusetts allows no deduction of debts from personal property, but does tax mortgages on the mortgagees.

T. Is there any reason for not exempting debts, but the necessity of "drawing a line somewhere"?

P. Yes, in the states where debts are exempted, it

662(e). *Why tax mortgages and not notes?*

is astounding how many debts in proportion to their assets, some of the financial magnates have about listing time, while widows and orphans haven't any debts at all.

T. Is there any principle which would reduce this chaos to uniformity—isn't there any way but moving to a modern state, to get rid of these old-fashioned double taxations?

P. A very simple one—tax only what is of record, tax it against the recorded owner. This is one application of the celebrated maxim to "tax at the source." Then, if it is a lien on any property, exempt, by its amount, the property that it is a lien against.

T. What is probably the most general form of multiplied taxation?

P. Excises on manufactured articles. Raw materials are often taxed, and then the goods taxed again in each set of hands they pass through: for instance, trees may be taxed as standing timber, as logs, as planks, as strips for making spools or awl-handles, and as spools or awl-handles. Iron may be taxed as ore in the bed, as ore at the furnace, as pig, as bar, as extra-tempered fine small steel, as jackknives, or as watch-springs, and in each one of these forms, after being taxed at the factory, it may be taxed again in wholesalers' hands, again in retailers' hands, and again in consumers' hands. Moreover, should it stay in any of these hands over a year, it may be taxed again, and in consumers' hands taxed every year till it rusts. Verily, manifold are the ways of taxation of personal property!

T. Well, what do you propose to do about *this*?

P. As long as "mankind is a fool" (to quote Carlyle)—or at least American mankind (no other civilized mankind is enough of a fool to attempt the direct taxation of personal property), "tax at the source." Tax it at the factory, and then stop.

T. But *what* factory—logging-camp, sawmill, turning-mill, spool-factory, or where?

P. At each one, if you want to: each one adds a new value beside which the old value is not worth considering. But don't tax the completed product again in the hands of dealers or users. If the tax on iron-ore is paid over again in a watch-spring, or that on logs in a spool, the amount of material is so trifling that it makes no appreciable difference. It is only in connection with the duplication on the finished product, which *is* serious, that this sort of tax is generally worth noticing.

T. But are all cases of duplicated or multiplied taxation equally objectionable with those we have considered?

P. No: some are even generally approved—such, for instance, as taxes on things that people are in danger of using too much of, like liquors and tobacco. There are generally excises on their production, and duties on their importation, and additional taxes on dealing in them.

T. But isn't there still another justification for this sort of duplicated taxation, that there is not for taxing mortgages?

P. Yes: the excise-taxes quite generally distribute themselves, while those on real estate, whether on fee or on the mere possibility of an estate, which is secured by a mortgage, may not distribute themselves as readily.

CHAPTER XXXVIII.

SUMMARY AND CONCLUSIONS ON TAXATION.

Teacher. Now among the various kinds of taxation that we have considered, with the glaring objections to the worst, and the perplexities, inconsistencies and occasional injustices of even the best, does it seem to you that any one alone can be depended upon?

Pupil. Not until human nature improves.
665. Perfect taxation not for imperfect people. Taxation is after all mainly a matter of psychology: it must be adapted to the people. Sources of revenue run all the way from lotteries to land—the semi-barbarian at one end, and a civilization not yet fully realized at the other. A wise system of taxation must consider the weaknesses of human nature, and also the various complexities arising from the fact that men often own property under governments different from those they live under.

T. Where do the weaknesses of human nature come in?

P. As duties and excises distribute themselves so generally, and are paid with so little inconvenience, 666. Vampire-taxes it is generally necessary, in the present needed now. state of human nature, to use them. But they should be used with great simplicity, to save expense in assessing and collecting; with great caution against corruption by interests seeking “protection”; and mainly on luxuries, so that the poor man will not be paying taxes on everything he buys.

T. But don't you want the poor man to have an interest in keeping taxes low?

667. The Rental-value tax may ultimately replace them. *P.* Yes, but that interest is not kept

very wide awake by a vampire-tax: one object of such a tax is to keep the interest asleep—its “ pinions fan the wound it makes.”

T. But if you take away the vampire-taxes, what other one that is not even worse, can do the work? The citizen seldom has any real estate, and you don't propose to substitute income, succession or personal-property taxes for even a vampire-tax, do you?

P. No: the frying-pan is better than the fire (as I believe I've remarked at least once before in these discussions). But if he does not own real estate, he pays rent, and the rental-value tax will keep him much more alive to his political duties than the vampire-taxes can, besides being a better tax in every other way.

T. Until we are educated up to do without them, what can we learn from England in using the vampire-taxes?

P. She selects a few articles—mainly luxuries on which people will readily pay most, and confines the excises and duties to them; and it works very well.

T. But can you *keep* the number of duties and excises small?

P. No: they strongly tend to increase: all interests clamor for protection in the tariff; and in every exigency a finance minister (in a country civilized enough to have one: we are not) tends to clap on a new excise. One can't read far into the subject without meeting the Dutchman's thirty taxes in a plate of soup.

T. But hasn't there been an improvement since his day?

P. Yes, in countries like England where legislators are generally chosen from the educated classes, and have read the world's experience.

T. In the tariff, how about possible home products versus necessarily foreign?

P. Except in young countries, or in tariff wars, the articles taxed should be incapable of production at home: this prevents a number of interests from corrupting legislation and trading “ protection ” with each other.

T. In spite of your proposing to tolerate indirect taxes because the weaknesses of

human nature make them necessary, what have been the results of "Protection" ?

P. Tariff-taxes and excise-taxes, have not only the faults of the vampire-taxes, but those of the inquisition-taxes too, and when duties become "protective," they become oppressive in the bargain. Protection is the very worst form of taxation.

T. How about income, inheritance and personal-property taxes ?

P. They are thoroughly inquisitorial, corrupting and impracticable, yield little, cost much to collect, and so should never be used except in dire necessity, if then. At the same time, they are better than protective taxes.

T. Well, after making all our concessions to the hard facts of human nature, let us seek a little glimpse of the ideal—of what may ultimately come, as human nature improves. What taxes have we seen that Evolution seems to tend to establish to the exclusion of others ?

P. Taxes on the land, including those on Franchises.

T. If land should be taxed more than other things, would the tax be paid from the rent of the land, or from the wages of the labor upon it and the profits of managing the labor ?

P. From the rent, of course; the wages of labor must be kept up to the market rate, or it would not go on the land. So must the profits of Ability: for the same reason.

T. But suppose the tax were so heavy as to eat into wages and profits ?

P. Then the land would be abandoned unless the taxes were lowered.

T. The taxes, then, must, in the long run, come out of the rent. Now what have we seen that the rent comes from ?

P. From the bounty of Nature. Rent comes only from sufficient fertility, or special fitness for other use, to give a return above wages and profits.

T. What then, in the very last resort, pays the tax on land ?

669. The remote ideal.

670. Nature pays some taxes,

P. The bounty of Nature.

T. Now what pays a franchise-tax ?

P. Something mightily like the same thing. As we have already seen, the value of a franchise is in its real estate; and anyhow, whatever an enterprise pays in the long run, above wages and ordinary profits, must come from some unusual advantage that is enough of a monopoly to prevent Ability rushing in to compete for the profits.

T. Does anybody consciously create those monopolistic profits of an ordinary franchise ?

P. No: as we have seen, the profits of a railway or water company, for instance, constantly tend to increase, long after wages and ordinary business profits are paid, by the mere clustering of people who simply mind their own business, without paying the franchises in question any attention but that of use. As intimated before, so far as any human effort is concerned, the excessive profits of such franchises are as much a bounty of Nature, as the rent of land is.

T. Well, now you have shown that, so far, the evolution of taxation seems to have been toward restricting it to land and franchises, and that such taxes are paid by the bounty of Nature. But could enough be got from these sources ?

P. It's pretty hard to tell from what other sources many taxes ultimately come now; only we get them in such devious ways that the friction and labor of getting them are a frightful burden.

T. What does all this suggest in regard to the future of taxation ?

P. It certainly opens up a bright vision. If taxes enough for all needs could thus be paid from the bounty of Nature (and there seems reason to think they could), we would be rid of the nuisances of custom-houses; of the injustices, business uncertainties and unutterable corruptions of the Protective System; of the duplications, petty annoyances, restraints and impediments to business in all excise and stamp taxes; of the perjury invited by all personal, succession and income taxes;

671. and can pay
all.

of the obstacles to development of the country in all taxes on buildings and improvements; of the aid to the niggard's saving, and the obstruction to elegant living and generous hospitality, involved even in so good a tax as that on rental value; and of the army of place-holders necessary to collect all these taxes.

T. But how would that affect the very respectable body of people known as landholders, of whom the late George Washington is considered an excellent example?

P. The land-taxes would come out of
 672. No hardship to landowners.

that portion of the bounty of Nature which has been corralled in the pockets of these good people; but as already shown (618-19), taking taxes from it, instead of from personal property, would not make nearly all the difference to those people that it seems to at first sight, and it looks as if the proceeding would be vastly to the advantage of the community in general.

T. Is there anything else in the possible new system to keep down the burden on the landowner?

P. The vast increase of the tax-return that could properly be had from the franchises. Considering that, and the vampire and inquisition taxes which owners of ordinary real estate already pay, it is probable that the ideal system would actually reduce their present burdens.

T. At all events, how do they seem to feel about it?

P. As already said: many of them, including the most intelligent portion, seem ready to have all taxation derived from their real estate. They want the direct tax on personal property removed, they are generally opposed to income and succession taxes, and not a few of them are opposed to tariff and excise taxes.

T. But as a matter of fact, doesn't each
 673. Amortization. tax put on a piece of real estate, lessen its selling value?

P. Yes: the tax is amortized, as they call it—deadened—into the value of the real estate. A tax of \$5 a year, for instance, would amortize the value of the estate about a hundred dollars, as it is 5 per cent. income from a hundred dollars.

T. Well, you say that real estate in the settled portions of the country is paying a larger and larger share of the taxes all the time. Then isn't its tax-burden pretty much amortized already?

P. It must be in many places, and yet the value of real estate seems to advance, on the whole, faster than amortization has pulled it down—and especially in the very places where it pays the largest share of the taxes.

T. Does it look as if this process were to go farther?

P. Yes: people, as they get wiser, are going to throw off more and more the stupid taxes, and real estate will have to bear more and more, except as franchises relieve it.

T. But will real estate become valueless in consequence?

P. It certainly has not, so far; and as everything that benefits the community benefits real estate, it seems probable that the removal of the stupid taxes will benefit real estate even more, perhaps, than wise taxes will harm it.

T. What would be the effect of the proposed system on the poor man?

P. Instead of paying, as now, indirect taxes on nearly everything he uses, he would simply have to pay no taxes at all, except as the real-estate tax should distribute itself as far as him.

T. What would be the effect on his wages?

P. Business, being relieved of tariffs, excises, stamps, and taxes on plant and goods, would flourish better; the demand for labor would consequently be better: so work would be steadier and wages higher.

T. But haven't you realized that a sole dependence on real-estate and franchise taxes is open to one very serious objection that you raised against indirect taxes?

P. Yes: unless a man owned land or shares in a franchise corporation, his stake in economical government would seem to him even less than under a system of purely indirect taxation. Under that, he may not know he is taxed; but under our new ideal system, he wouldn't be taxed at all, except so far as real-estate taxes may be diffused.

674. A boon to the poor.

675. How to include all citizens.

T. Well, what would best be done about it ?

P. Encourage each man to own at least his home, meanwhile bring in the best of the other taxes we have examined—the rental-value tax, make every voter pay a tax according to his rate of living, whether he lives in a palace or an attic—make him realize that he has a stake in the government, if it is but a dollar a year.

T. There are numbers of sovereign American citizens whose vote counts as much as anybody's, who never have as much at a time as a dollar to pay a tax with. What are you going to do about them ?

P. Well, perhaps it's time to have their vote stop "counting as much as anybody's"—to have them stop disposing of other people's money: the frightful wastes and stupidities in our taxation are largely due to their votes.

676. Causes of delay.

T. Now more specifically, what delays the adoption of a system of taxation promising so much good all around ?

677 (a). Ignorance and self-seeking.

P. Ignorance and stupidity, which delay most good things. Moreover, the system doesn't promise much immediate good to the owners of franchises, and they own most of the legislatures.

T. But what delays the single land-tax ?

P. Landowners would favor it still more, of course, if they were sure of liberal franchise-taxes to lessen their own. But many landowners, especially the farmers, will obstruct it anyhow, until they understand it better.

T. Is there nobody else to oppose it ?

P. Yes, a stronger and better organized and more interested element than the farmers or, perhaps, the franchise-owners. I mean the manufacturers. They spend enormous sums in keeping up the so-called protective system.

T. But isn't there even a firmer obstacle than that to the national government taxing land ?

678 (b). In the U. S. Constitution.

P. Yes: as we saw (583), the National Constitution opposes it, and it's probably

harder to amend our Constitution (Art. V.) than even to get rid of the Protective system.

T. Then are we tied forever to the protective system ?

P. Well, constitutional amendments *are* possible, with the growth of wisdom, and sometimes in spite of it. Moreover, a tariff system is not necessarily a so-called "protective" one, as Great Britain has shown, tho it's very hard to prevent its becoming so.

T. Now we have merely touched the outlines of the complicated questions of taxation; the discussion of them has run into volumes and even libraries. How then, would you expect them to be handled by the unlettered men who compose the majority of our legislatures ?

P. Just as they have been handled in the United States—with less wisdom and more corruption than under any other government in Christendom.

T. What can be our remedy ?

P. To increase the respect for knowledge and the scorn of corruption, and to get legislatures in the way of leaving questions of taxation to expert and faithful men, even if they have to refer the questions, as they even now are sometimes wise enough to, to commissions chosen outside of their own members.

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